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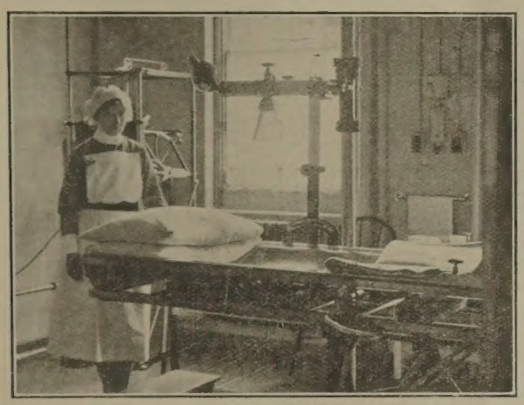
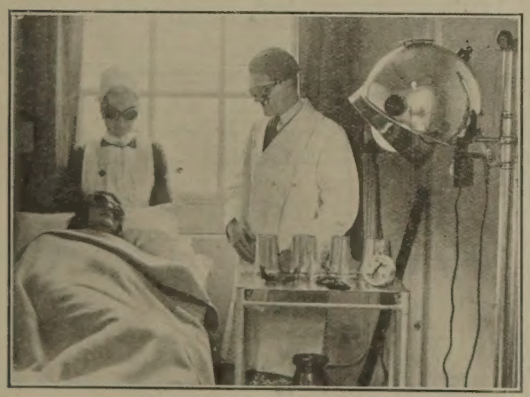


Radiographic Room, showing tilting couch.



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The Solicitors' Journal

VOL. LXXIX. **Saturday, June 29, 1935.** No. 26

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Current Topics.

Treasury Counsel and the Bench.

THE tradition whereby the holder of the post of Junior Counsel to the Treasury, either on the Chancery or the Common Law side, is understood to have the reversion of a judgeship after a certain number of years, has once again been followed in the promotion to the Bench of Mr. WILFRID LEWIS to fill the vacancy created by the lamented death of Mr. Justice AVORY. Naturally the post of Junior Counsel to the Treasury, popularly known as the Attorney-General's devil, with its certainty of a plentiful supply of work and with the reversion, as has been said, of a judgeship, is one that has been much coveted. As the late COMTE DE FRANQUEVILLE put it with some humour in his classic book, "Le Système Judiciaire de la Grande Bretagne," when speaking of "devils" in the professional sense, there were some "qui font souvent une très belle carrière, surtout s'ils parviennent au plus haut poste de la hierarchie infernale, celui de diable de l'Attorney-General, titre familier du Junior Counsel de la Tresorie." Not a few of our most distinguished judges of the past may be said to have graduated in this office, if so it may be called, for the more important work of the Bench. Among previous holders of the post were LORD BOWEN, Lord Justice RIGBY, Lord Justice STIRLING, Mr. Justice JOYCE, Mr. Justice R. S. WRIGHT, LORD PARKER, of whose appointment LORD FINLAY, by whom as Attorney-General he had been selected, said: "The unanimous opinion of all who know the profession was that Mr. PARKER was the man for the post," although, as was added by LORD SUMNER in his graceful sketch of his colleague in the Dictionary of National Biography, "to the public he was then unknown"; but if that was so, he was soon, particularly when he reached the House of Lords, to show the vast stores of legal learning that he possessed and upon which he could draw in the determination of the various appeals in the hearing of which he took part. Of the present occupants of the High Court Bench, Mr. Justice BRANSON and Mr. Justice CROSSMAN were also of the goodly company of Treasury Counsel. It will thus be seen that the new judge follows in the footsteps of a long list of distinguished lawyers whose tenure of the office proved but a stepping-stone to the Bench.

Central Criminal Court: June Sessions.

WHEN the June Session of the Central Criminal Court opened on Tuesday, the calendar included one indictment of attempted murder, one charge of manslaughter, eleven charges of causing grievous bodily harm, and one case of a woman charged with throwing corrosive fluid over another woman. The list also included an indictment of an immigration officer for corruptly accepting gifts of money, five charges of fraudulent conversion, five of breaking and entering, and one each of false pretences, demanding money with menaces, publishing a defamatory libel, robbery with violence, and conspiracy to defeat the ends of justice. There were also eight cases of bigamy, one of procuring a woman to commit bigamy, and two alleged offences against the Post Office. At the beginning of the week the list showed sixty-five persons awaiting trial.

Scottish Records.

IN the course of a speech delivered just a week ago, Mr. THOMAS JOHNSTON referred to the rather surprising fact that the registers of the Acts and Decrees of the Scottish Court of Session from 1542 until the end of the eighteenth century are totally unindexed and untranslated. There were, he said, students of palæography willing to decipher these old scripts, in which so much of Scottish history lay buried, but Scotland got only £200 a year from the Treasury for historical publications and that was not enough to publish one book a year. It appears that the Sheriff Court records are in a state of chaos and some cases are mouldering away. The importance of such records and the desirability of their preservation and of their being rendered reasonably accessible are unquestionable. Not only are their contents frequently a mine of information to the student of past events and manners, the motives dictating their compilation give them the kind of value, from an historical standpoint, which may be attached to circumstantial evidence in the elucidation of facts relating to an alleged crime—their witness being, as it were, involuntary and not consciously directed to the giving of information to succeeding generations.

Poisons Board Report.

SECTION 16 of the Pharmacy and Poisons Act, 1933, provided for the setting up of an advisory committee, to be called the Poisons Board, and to be constituted as prescribed in the Second Schedule to the Act. Among the duties of the Board are the preparation of a list containing two parts, of which the first relates to poisons which (subject to the provisions of the Act) are not to be sold except by an authorised

seller of poisons, and the second to poisons which (subject as before) are not to be sold except by one who is either an authorised seller or whose name is entered in a list kept by a local authority. The distinction between the two parts of the list is founded upon the consideration that substances in common use, or likely to come into common use, for purposes other than the treatment of human ailments should be more readily obtainable than others and included in the second part accordingly. The importance of stringent restrictions with a view to the prevention of accidents and crime will hardly be questioned, and in the latter connection the Board makes noteworthy recommendations in regard to the sale of arsenic and strychnine. The former is placed in the first part of the list above mentioned. "Although," it is stated in explanation, "we have received representations from several quarters in regard to the point, we have not felt able to advise that arsenical weed-killers should be given the wide distribution afforded by the listed sellers, for we cannot ignore the fact that arsenical weed-killer has been the poison employed in several cases of murder, and that both in liquid and powder forms it requires unusually careful handling if disastrous accidents are to be avoided." In reference to strychnine the Board states in explanation of the recommendation that the sale of such should be prohibited except as an ingredient of a medicine, "we would point not only to its well-known use as an instrument for murder, but to the frequent poisoning of hounds, domestic animals, and wild birds from the negligent laying down of poisoned baits for vermin." With regard to accidents, the report alludes to the desirability of keeping separate in the house, preferably under lock and key, articles marked "Poison" and "Caution," and recommends that the labelling provisions of the Pharmacy and Poisons Act should be applied at every stage of distribution from the manufacturer downwards. It has been found impracticable to adopt any specific safeguard against the inadvertent taking of an overdose of poison in a medicine beyond that which can be secured by the restriction of retail sale. The responsibility in this connection must, it is stated, be left to the medical practitioner, dentist, veterinary surgeon or pharmacist. The rules proposed by the Board, and submitted to the Home Secretary in accordance with the provisions of the Act, were dealt with in a "Current Topic" in our last issue.

Full-time Employment and Poor Relief.

The Relief Regulation Order, 1930 (S.R. & O. 1930, No. 186), provides by para. 8: "No able-bodied man shall receive relief in respect of any period during which he is employed and in respect of which he receives wages or other remuneration." The succeeding paragraph, which enables the Public Assistance Committee of a county or county borough council to afford relief to able-bodied men requiring relief on account of sickness, accident or bodily infirmity affecting himself or his family or dependants, or for defraying burial expenses of a member of his family, notwithstanding the provisions of para. 8, does not meet cases of hardship arising from the fact that men in full-time employment may receive less in wages than they would have received on the relief scales. This position would be more wide-spread than it is but for the fact that employers, not wishing to dismiss workers for whom full-time employment is not available, are in many cases running their machinery with one set of workers for half the week and so enabling such to claim for unemployment benefit for the other half of the week. Cases have arisen of weavers who, having fewer than the normal number of looms to attend to and being paid the full piece rates for the woven cloth, earn £1 a week or less, and there are qualified adult male workers in the spinning section of the industry who in order to keep at work have accepted positions normally occupied by adolescents, and are paid at rates applicable to such. The foregoing paragraph was clearly designed to prevent the abuse of utilising poor relief to subsidise wages, but the anomaly of men paying to remain at work (for that is what it comes to) seems hardly more justifiable. The whole position is one of great difficulty not readily admitting of a solution. *The Times* correspondent suggests: "When a government is faced with an anomaly of the proportions of that existing . . . the application of a remedy involving unorthodox procedure—involving resort even to another anomaly—is worthy of consideration if by the substitution of the one for the other there is likely to be a diminution of social derangement."

Ribbon Development Bill: Second Reading.

In the debate on the Second Reading in the House of Commons of the Restriction of Ribbon Development Bill, objection was taken on the ground that its provisions would fail to deal with the evils it has been drafted to combat, and that it would throw an intolerable burden upon local rates. Moreover, it was urged that the problem of ribbon development is not a transport but a sociological and æsthetic problem and that the Second Reading of the Bill should have been moved not, as was the case, by the Minister of Transport, but by the Minister of Health. The problem could have been dealt more effectively under the Town and Country Planning Act. What was needed was a better understanding of that Act, and more driving power behind it. The chief bone of contention seems to have been cl. 10, which enables highway authorities to acquire land for road purposes and for preserving amenities and controlling development. This power extends to a distance within 220 yards from the middle of the road. Among suggestions was one that the exemption accorded to agriculture under the Act should be extended to mining and quarrying. The Minister of Transport outlined the methods by which the problem of ribbon development are tackled and emphasised the principle of deferred compensation which it contains, compensation only being payable when an owner proposes to develop his land. The contents of the Bill have, however, already been dealt with at some length in this column, and it is unnecessary to go over the ground again. The danger or possibility that a highway authority might acquire amenities which an owner had preserved or intended to preserve and then destroy them by some unsightly development of its own was recognised, and Mr. Hore Belisha said that he was prepared to accept and insert in the Bill any reasonable safeguards that could be devised. The urgency of some form of arresting the spread of what was described as "this creeping paralysis on the roads" is well illustrated by figures given in the same speech. Two out of every three deaths from road accidents occur in built-up areas, while four out of every five pedestrians killed on the roads meet their deaths within them. Of the children killed on the roads, more than eight out of ten are killed in these areas. The motion for rejection was negatived and the Bill was read a second time last Tuesday.

Progress of the Housing Bill.

Among the amendments to the Housing Bill during its passage through the Committee stage in the House of Lords on Monday and Tuesday is a clause providing that an objection to a clearance order or to compulsory purchase order under Pt. I of the Act of 1930, or of the new Act, on the ground that a building is not unfit for human habitation, entitles a person interested therein to be furnished by the Minister of Health with a statement in writing for the reasons of the decision that the building is unfit. Another clause provides that if an owner who has received notice under the Bill intends to submit an undertaking with regard to the carrying out of works, he shall, within fourteen days, give notice to the local authority of his intention to do so, and shall submit details of the undertaking within such time as the local authority may reasonably prescribe. Another amendment, which enables a housing

association to appeal to the Minister for an inquiry where a local authority has unreasonably refused to make arrangements with the association under cl. 24, was withdrawn on the understanding that a Government amendment to the same will be introduced on the report stage. An amendment is also to be introduced during the report stage relating to the Central Housing Advisory Committee, which, it was urged, should be a committee similar to that set up under the Valuation and Rating Act, 1925. Amendments rejected included a proposal that the surveys by local authorities should embrace all cases of overcrowding and not be confined to working-class dwellings, and another proposal to omit cl. 19, which repeals certain provisions of the Housing Act, 1930, relating to improvement areas. The suggestion that a person appointed by the Minister to hold a public inquiry should be selected from a panel set up by the Lord Chancellor and the President of the Surveyors Institution, in consultation with the Minister, was likewise negatived. The new provision which enables local authorities to make *ex gratia* payments to shopkeepers whose custom is affected by a decrease in population as a result of the operation of the new Act came in for strong criticism. The question whether these payments will be subject to the approval of the Minister is to be looked into. It was indicated that a public house is not a retail shop within the meaning of the provisions and that payments of this character should not be made to branches of multiple shops. A statement on the latter point will be made on the report stage.

Finance Bill Amendment: Tax on "Cut" Salaries.

A NEW clause inserted in the Finance Bill corrects an income tax anomaly which would have arisen from the imposition and subsequent removal of the salary "cuts." The clause provides that where a person, on entering upon any office, ceases to hold any other office and (but for the provisions of the section) the tax payable by him on the emoluments of the said officer would have been computed by reference to sub-ss. (4) and (5) of s. 45 of the Finance Act, 1927, that person shall (on giving the prescribed notice) be entitled to require that all his emoluments arising from the new office as well as from the old office shall be assessed as if they had arisen from one and the same office and thereupon any assessment already made shall be adjusted accordingly and any tax overpaid shall be repaid. The clause only applies when both offices require the holder to devote substantially the whole of his time to the duties thereof, and where the net emoluments of the new office do not exceed those of the old by more than 20 per cent. The clause obviates an injustice which would have resulted from the fact that on acceptance of a new office income tax is paid on the salary thereof, and thus such a person would not be in a position to benefit from the assessment on a "cut" income as would have been the case if he had remained in his former position.

Business of Courts.

THE Royal Commission on the Dispatch of Business at Common Law has appointed Saturday, 20th July, as the final date for the submission of evidence, and it is intimated that, in order to ensure full consideration by the Commission, statements should reach the Secretary, Treasury Chambers, Whitehall, S.W.1, on or before that date. We propose to continue our practice of indicating the salient points of the evidence tendered at the public meetings of the Commission.

Exhibits: New Rules of Court.

READERS' attention should be drawn to the new Rules of the Supreme Court (No. 1), 1935, the text of which appeared in our last issue (79 SOL. J. 455). They are self-explanatory, and their contents need not be dilated upon here, but it may be mentioned that under them all documents put in evidence in civil cases in the King's Bench Division are to be marked and identified as exhibits and listed according to the prescribed form. A duty is imposed upon every party who has put in any exhibit in the course of proceedings to apply to the Associate immediately after the trial for the return of the exhibit and, so far as it is practical, having regard to its nature, to keep it marked and labelled as before, so as to permit of its production in the event of an appeal to the Court of Appeal or the House of Lords. HUMPHREYS, J., at the end of a case heard on the 20th of the present month, drew attention to the existence of the new Rules and intimated that he thought it desirable to refer to the matter publicly, as the profession generally might not yet be aware of the new Rules which had come into force only a few days previously.

Recent Decisions.

Townley Mill Co. (1919), *Ltd.* v. *Oldham Assessment Committee* (reported at p. 479 of this issue) is a decision on s. 24 of the Rating and Valuation Act, 1925, which by sub-s. (1) draws a distinction between (*a*) motive machinery in a mill without which the plant could not operate, and (*b*) process plant and other machinery, and provides that for rating purposes the former is to be regarded as part of the hereditament, while no account is to be taken of the latter. A decision of Lancashire Quarter Sessions, upholding a decision of the Oldham Assessment Committee, to the effect that the appellants were in beneficial occupation of a mill by reason of the warehousing of machinery of the latter kind through its maintenance in position after the closing of the mill, was negatived by a Divisional Court which held that no regard could be had to its value. The assessment was reduced to a nominal value in respect of a small degree of beneficial occupation—the figure being agreed upon in the event of the appeal succeeding. Leave to appeal was given. The Federation of Master Cotton Spinners' Association has issued an official statement in regard to the effect of the foregoing decision. It is said that, unless the decision is reversed by the Court of Appeal or the House of Lords, over fifty federated companies will benefit to an aggregate of about £8,000 a year, and the benefit will be retrospective for the past two rating years.

In *Penman* v. *Fife Coal Co., Ltd.* (p. 478 of this issue), the House of Lords decided that deductions by a colliery company from the wages of one employed by them as oncost worker in respect of rent for a house occupied by the worker's father infringed the Truck Acts and were to be treated as illegal, null and void thereunder. Moreover, the appellant's assent to the deductions could not, it was held, be pleaded by the company in answer to the appellant's claim to the amounts deducted. The case was distinguished from that of *Hewlett* v. *Allen & Sons* [1894] A.C. 383, where the validity of payments by the employers to a third party was upheld. In the present case the retention was for the employers' own benefit. The decisions of the Second Division of the Court of Session and of the Sheriff were negatived by the House of Lords and that of the Sheriff-Substitute restored.

In *Cook* v. *Alfred Plumpton, Ltd.*, *Cook* v. *Henderson* (*The Times*, 22nd June), appeals were allowed from a decision of the Sunderland Justices who had dismissed informations relating to charges of the driving of lorries by persons for periods in excess of those allowed by s. 19, sub-ss. (1) and (2), of the Road Traffic Act, 1930. Sub-section (1) prohibits the employment of a driver of a vehicle of the class in question for (*a*) any continuous period of more than 5½ hours, or (*b*) for continuous periods amounting in the aggregate to more than 11 hours during the 24 hours commencing two hours after midnight. Sub-section (2) provides that any two or more periods of time shall be deemed to be a continuous period unless separated by an interval of not less than half an hour in which the driver can obtain rest and refreshment. The justices applied this provision, which refers to one continuous period, to an aggregate of periods and dismissed informations which disclosed employment for more than the aggregate allowed. The cases were sent back with a direction to find the offences proved.

The Law relating to Legal Aid and Trade Protection Societies.

I.

A CENTURY ago it might, perhaps, have been possible to formulate a tolerably complete and logical account of the law of maintenance and champerty as affecting legal aid and trade protection societies.

But the law of maintenance has of late years undergone a transformation so complete that the late Fletcher Moulton, L.J., in the comparatively recent case of *British Cash & Parcels Conveyors Ltd.* v. *Lamson Store Service Co. Ltd.* [1908] 1 K.B. 1006, expressed the rather extreme view that it is now idle to look upon the courts as administering the old common law. It is certainly true that, whenever any case now comes before the courts, it is so far as possible dealt with in accordance with modern ideas of public policy. The time has passed when every person who could by any stretch of imagination be accused of having aided or encouraged another in litigation was in peril of being branded as a " breed-bate " and of suffering the penalties of the civil, if not of the criminal, law. But it is by no means certain to what precise extent the old law is to be regarded as obsolete.

The modern transformation of the law of maintenance is particularly observable in the case of contracts of indemnity.

It was from early times, and still remains, the law, that a contract of indemnity against the costs of pending litigation was illegal and void ; and, if acted upon, and in some circumstances even of itself, amounted to actual maintenance. Authority for this proposition will be found in Bro. Abr. Tit. " Obligation " (II) ; *Pierson* v. *Hughes*, Freem. 71, 81 ; *Wallis* v. *Duke of Portland*, 3 Ves., at p. 502 ; *Shackel* v. *Rosier*, 2 Bing. N.C. 634 ; *Bradlaugh* v. *Newdegate*, 11 Q.B.D. 1.

In those days, before the practice of insurance against risks of all kinds had become so widespread as it is now, any attempt to enforce a contract of insurance against the costs of future litigation, whether contemplated or not, would have been doomed to failure. There appears, indeed, to be no reported case where the attempt was made. It was not until comparatively recent times that the whole question came before the court for consideration in the *British Cash Conveyors' Case*, which it is now necessary to consider in some detail.

In this case the plaintiffs and defendants were trade rivals dealing in certain apparatus for conveying cash. The plaintiffs brought an action against the defendants for wrongfully inducing the plaintiffs' customers to break their contracts with the plaintiffs (a claim on which it was ruled that there was no case to go to the jury) and for maintenance in relation to three contracts of indemnity entered into by the defendants with customers of the plaintiffs. In each case the defendants had installed their apparatus while contracts between the customers and the plaintiffs for the use of the latter's cash conveyors were still unexpired, but which the customers claimed on various grounds to be entitled to have set aside. The defendants, as part of their agreement to supply these customers (who had in the first two cases been actually under subsisting contracts with them when the plaintiffs had obtained their orders), agreed to indemnify them against any actions brought against them by the plaintiffs for breach of contract. In each case proceedings were commenced ; in the first, the plaintiffs discontinued their action and paid damages on a counter-claim by the customer ; in the second, the plaintiffs recovered damages, but less than had been offered them in settlement before action brought, and the customers' counter-claim for rescission was dismissed, but on grounds which Fletcher Moulton, L.J., in the maintenance action expressed himself as unable to understand ; in the third, the claim was settled for an agreed sum in respect of damages and costs.

In the two latter cases the defendants repaid to the customers the amount of the damages and costs under their indemnities.

In the action for maintenance, judgment was given for the plaintiffs in the court below, but the defendants appealed, and the appeal was allowed.

Cozens Hardy, M.R., after stating his opinion that beyond all doubt there was a time when what the defendants had done would have been regarded as criminal, and tracing the modifications which had taken place in the law, said : " It is common knowledge that contracts of indemnity are recognised and unquestionably valid, and none the less because they may involve and indeed contemplate the institution or the defence of an action. The whole business of marine insurance depends upon this. And perhaps the familiar insurances against claims under the Workmen's Compensation Act are a still better example. In my opinion all that was done by the defendants falls under and is protected by this principle.

The defendants had a business interest, a commercial interest, which fully justified the indemnities or guarantees which they gave."

Fletcher Moulton, L.J., said that in his view : " To say that a tradesman is to submit to the loss of a customer because of threats by a rival of bringing unfounded claims (his lordship was here dealing with the first indemnity) against that customer, and that he may not legitimately extend his business by indemnifying the customer who is desirous to employ him, is to my mind ridiculous." In each case, he said, there was a proper contract of indemnity entered into by the defendants not wantonly or officiously, but in the reasonable defence of their trade interests, and such indemnities did not necessarily involve any action, since the claims might be settled. Once it was decided that the indemnities were valid, it was clear that the defendants had a direct personal and pecuniary interest in the action and were, therefore, excused from maintenance.

Buckley, L.J., concurred, on the ground that as regards the allegation of maintenance the plaintiffs had a *bonâ fide* legitimate interest in the protection of their customers in the matter.

It is important to consider the precise effect of the above decision upon the law of indemnities. The following four propositions appear to be deducible :—

(1) A contract of indemnity or insurance against claims by third parties will, if legal itself, excuse any acts of maintenance done in performance or in pursuance of it. The insurer may himself undertake the conduct of the proceedings and assume entire responsibility therefor, indemnifying the insured against the payment of damages and costs ; and indeed, policies of this nature usually contain express provisions for this purpose. He may also, where the contract is a true contract of indemnity, be added as a third party in the action. Further, under the doctrine of subrogation he may enforce by action against the opposite party in the litigation any order for the payment to the insured of costs which he has himself paid under the insurance.

(2) An agreement to indemnify either a plaintiff or a defendant against the costs of a pending action remains illegal.

(3) An ordinary insurance covering third party risks, or an indemnity against the costs of future actions against the insured, whether generally, or arising out of a particular contract or transaction, is valid by whomsoever it is given.

(4) The same is true in the case of an indemnity against the costs of litigation which may be brought against the person indemnified in respect of a particular breach of contract, whether contemplated or actually committed, subject to the modification that it is open to doubt whether the person giving such indemnity must show some common interest in the protection of the person to be indemnified. The doubt is greater where the litigation would have to be instituted by the person indemnified himself ; in such a case it is conceivable that even an indemnity against

litigation generally might be held invalid. It seems possible, however, that the "suing and labouring" clause in a Lloyd's policy might in exceptional circumstances extend to the cost of proceedings commenced by the insured (see *Xenos* v. *Fox*, L.R. 4, C.P. 665). Such an indemnity would seem on principle no more open to objection than the system of assignment of copyright which was upheld in the case of the Performing Rights Society, which we shall consider later.

But the common interest to be proved need not be a direct pecuniary one in the subject-matter of the action, but may be an interest in the protection and preservation of customers, as in the above case, or mutual protection against trade monopoly as in the case of *Plating Co.* v. *Farquharson*, 17 C.D. 49.

(5) If there is something improper in the nature of the agreement of indemnity arising from the circumstances of its inception, e.g., if it be given as part of an illegal transaction such as an attempt by unlawful means to procure a breach of contract, or if it be given officiously and wantonly in a case where common interest is requisite to support it, it cannot be set up as an excuse for any interference in the subsequent litigation.

The actual decision in the *British Cash Conveyors' Case* is not conclusive upon the correctness of proposition (3), but, as the learned lords justices pointed out, the universal practice of the courts even at that date in recognising and enforcing policies of insurance against third party risks was sufficient warranty of its correctness, and such policies are now actually required by statute to be taken out by the drivers of motor vehicles. Neither is it conclusive upon the truth of proposition (4), since both Fletcher Moulton and Buckley, L.JJ., based their decision, in part at least, upon the interest of the defendants in the protection of their customers.

We are now in a position to apply the foregoing propositions to the particular case of trade protection societies.

It follows from propositions (1), (3) and (4) that a *bonâ fide* association such as a trade protection society or chamber of commerce may lawfully agree as part of its contract with its members to indemnify them not only against the costs of any future litigation to be brought against them, but most probably also against the costs of collecting any debts due to them in the course of their trade or business, and if necessary resorting to legal process for that purpose. Such an institution may without the imputation of maintenance equally well retain its own solicitor for the member in the litigation or pay the costs and disbursements of the member's solicitor therein. Nor is it in general material what form the payment for such services takes, or even, it would seem, that there is no consideration for them. But inasmuch as common interest probably does not justify champerty, such an association cannot, it seems, charge its members a percentage upon, or agree to take in payment any share of, the property recovered without rendering itself liable for champerty; and it is possible that an agreement by which a fee contingent upon success in the litigation is payable might be held to be unenforceable against the member as savouring of maintenance and champerty.

The same propositions establish the legality of the numerous free insurance schemes covering accident and third party risks promulgated by associations of cyclists and motorists, and by newspapers and periodicals; and they are also applicable to the case of an ordinary insurance society having no interest in the welfare of its policy-holders; though the validity of a policy covering loss from litigation instituted by the insured himself (if any such are issued) is perhaps open to doubt.

But an indemnity against the consequences of the intentional commission of a criminal act or tort is still illegal, though it has recently been held (*James* v. *British General Insurance Co. Ltd.* [1927] 2 K.B. 311) that there is nothing contrary to public policy in an insurance covering the consequences of criminal negligence. A discussion of the limits of this principle will be found in the judgment of Scrutton, L.J., in *Weld-Blundell* v. *Stephens* [1919] 1 K.B. 520.

A good illustration of an illegal society coming within proposition (5) is to be found in *Ford* v. *Radford*, 36 T.L.R. 658. Here the "Turf Register," a society of which the plaintiff was sole proprietor, though describing himself as secretary, sought to enforce a contract with a member. The society in consideration of a subscription and a moiety of the net amount recovered, agreed as part of the contract of membership to put up all necessary disbursements for the initiation and conduct of the legal and other proceedings necessary to recover debts which were legally irrecoverable under the Gaming Acts. Payment, or a fresh promise to pay, was in fact obtained from the debtors by threatening to place their names on a "black list" or register of defaulters. The members had no voice in the management of the society and neither received any share of the profits, nor were liable for any losses.

It was held that the case was distinguishable from the *British Cash Conveyors' Case*, in which the indemnities were given in defence of business interests. It was argued that the plaintiff was the representative of all the members and as such had a common interest; but it was held that there was no such interest or reasonable grounds for believing that there was. There was no interest other than what was created by the illegal agreement with the member, nor any community of interest among the members in their respective debts. The agreement was therefore held void, as being contrary to public policy and as amounting to champerty.

A society of a different type came before the courts in the case of *Performing Rights Society Ltd.* v. *Thompson*, 34 T.L.R. 351. In this case the plaintiff society was formed for the protection of the members' copyright in songs and other musical works. Each member assigned to the society all rights of copyright vested, or to be vested, in him without specifying the particular work. By the rules, the fees payable by the members and the damages recovered were pooled and the resultant fund divided among the members after deducting expenses. In an action brought by the society for infringement of copyright in one of the member's works, it was, *inter alia*, pleaded as a defence that the assignment to it was illegal on the ground of maintenance and champerty. Atkin, J., gave judgment for the plaintiffs, on the grounds that the objects of the society were in every way genuine and legitimate and were carried out by genuine and legitimate methods; that the evidence showed how flimsy was the suggestion that the society was formed to foment litigation; and that the arrangement for division of the profits was not champertous. There was, said the learned judge, a "perfectly *bonâ fide* business arrangement between the society and its members for legitimate business reasons. The assignments were always intended to be real and substantial transactions, and the plaintiff society and its members both had a real and *bonâ fide* interest in the result of the litigation. The provision for the division of the damages was only subsidiary to the real transaction."

It follows from this decision that a society which takes an assignment from each member of his present and future debts or other property for the purpose of protection or recovery is in general perfectly lawful. It is clear in such a case that if the profits arising from the actions are pooled and ultimately divisible among the members, whether on winding up or by way of dividend or otherwise, or if the members are liable for losses incurred by the society, the society will have a common interest in litigation carried on for the purpose of protecting or recovering the individual member's property. It was expressly held in the *Performing Rights Society Case* that such a division of profits was valid when subsidiary to the principal transaction and did not amount to champerty. But even if

there be no such provision, it seems that the members might have an interest in the successful carrying out of the objects of a society of which the existence was advantageous to them in their trade and provided an incentive to their trade debtors for prompt payment. This seems to have been the view of the learned judge in the above case, and his judgment proceeded on the assumption that the whole arrangement would have been good apart from the provision for distribution of the profits, which he considered a mere incident of the whole transaction.

But in point of fact no common interest of any kind appears to be essential to the validity of such a society, since it is now established by the decision of the Court of Appeal in *Fitzroy* v. *Cave* [1905] 2 K.B. 364, that the assignment of debts or other choses in action to a third party for the mere purpose of recovery is valid, even if the assignee is not to retain anything out of the proceeds beyond his costs.

(*To be continued.*)

Emergency Acts and Damages for Negligence.

NOT infrequently in these days of dangerous power-driven machines in factories and dangerous petrol-driven machines on the roads, emergencies arise in which it is possible, by acting promptly, to save others from serious harm. Sometimes such prompt action is instinctive, sometimes it is reasoned, and sometimes it arises in pursuance of an actual legal duty. The attitude of the English courts to the question whether a person acting in this way in an emergency from one or other of the motives mentioned and thereby injured can recover damages against the person whose negligence caused the emergency has been discussed in a number of recent cases. An analysis of these cases makes it clear that the law has progressed in the direction of recognising the moral as well as the legal duty to act.

The question of fact in these cases can be put in this way: (1) was the emergency action a *novus actio interveniens* preventing the injuries from being the direct result of the defendant's negligence? (2) Does the principle "*volenti non fit injuria*" prevent the plaintiff from succeeding? (3) Would a person so acting in an emergency be guilty of contributory negligence?

It has been clearly established that if a plaintiff acts instinctively and reasonably he is entitled to damages against the negligent party. In *Brandon* v. *Osborne Garrett & Co.* [1924] 1 K.B. p. 548, at p. 552, Mr. Justice Swift, after referring to the principle in *Jones* v. *Boyce*, 1 Star. 493, that a person placed by a defendant's negligence in such a reasonable apprehension of danger that he acts in a certain way and is injured has a right to damages, said: "If a person is not held guilty of contributory negligence because he, acting instinctively for his own preservation, does that which a reasonable man under those conditions would do, I cannot see why he should be any more held to be guilty of contributory negligence if he does his instinctive act for the preservation of his wife or child or even for a friend or stranger."

A genuine emergency existed in that case. The plaintiffs were husband and wife and the emergency occurred while they were customers in a shop, with a glass skylight forming part of the roof, and, as a result of their negligence, glass fell and struck the husband. The wife reasonably apprehending that he was in danger, instinctively clutched his arm and tried to pull him away. In doing so she strained her leg and brought about a recurrence of thrombosis from which she had previously suffered. It was held that "acting instinctively as she did . . . she did nothing wrong or anything that can be called contributory negligence," and was therefore entitled to succeed in her claim for damages.

Where there is no genuine emergency it would appear that where a plaintiff who interferes brings about a *novus actio interveniens*, which prevents any injuries to him from being the direct result of the defendant's negligence, he may also be guilty of contributory negligence. He is also debarred from suing on the ground of "*volenti non fit injuria*." The plaintiff in *Cutler* v. *United Dairies (London), Ltd.* [1933] 2 K.B. 297, saw a horse and van running very quickly past his house without a driver. He went into the back garden to see if his children were safe, and found that they were safe. In a field separated from the back garden by a hedge he happened to see the horse, which was still very restive and which the driver was trying to quieten. The driver was excited and shouted "Help, help!" The plaintiff went over the hedge and attempted to hold the horse, but was thrown to the ground and suffered the injuries in respect of which he subsequently died.

That this was not a genuine emergency was clear from the judgments in the Court of Appeal. The plaintiff's act was held to be a *novus actio interveniens*. The general observation of Lord Justice Scrutton that the owner of a horse that bolts along the highway is not liable to a spectator who runs up to stop it and is injured must be construed in the light of the facts of the case before the court. Greer, L.J., said in *Haynes* v. *Harwood* [1935] 1 K.B. 146, 158: "I do not think that Lord Justice Scrutton's mind was directed to the circumstances we have here, of somebody running out for the purpose of rescuing or protecting people in danger of being injured by a runaway horse." Greer, L.J., thought that Scrutton, L.J., meant that the spectator who stops the horse will not *necessarily* succeed.

That case carries the law on the question of injuries arising out of emergency actions much further. A policeman on duty inside a police station saw the defendant's runaway horses with a van attached coming down the street. There were a large number of people in the street at the time, and the plaintiff rushed out and stopped the horses, meeting with injuries in so doing. Finlay, J., held that the defendant must have contemplated that someone might attempt to stop the horses in an endeavour to save life and limb, and that as the police were under a general duty to intervene to protect life and property, the act of and injuries to the plaintiff were the natural and probable consequences of the defendant's negligence. He also held that the plaintiff acted pursuant to his official duty and therefore the maxim "*volenti non fit injuria*" did not apply.

In upholding this judgment, important and to some extent new propositions were laid down by the Court of Appeal. Lord Justice Greer said: "The American rule is that the doctrine of the assumption of risk does not apply where the plaintiff has, under an exigency caused by the defendant's wrongful misconduct, consciously and deliberately faced a risk, even of death, to rescue another from imminent danger of personal injury or death, whether the person endangered is one to whom he owes a duty of protection, as a member of his family, or is a mere stranger to whom he owes no such special duty. In my judgment that passage not only represents the law of the United States, but I think it also accurately represents the law of this country. It is, of course, all the more applicable to this case because the man injured was a policeman who might readily be anticipated to do the very thing which he did, whereas the intervention of a passer-by is not so probable." Later he said: "I have considered the matter from the point of view of principle, and from that point of view I think it is quite immaterial whether the policeman acted on impulse or whether he acted from a sense of moral duty to do his best to prevent injury to persons lawfully on the highway."

Maugham, L.J., was even more positive in his rejection of the view that the act of the rescuer must be instinctive in order to enable him to succeed. He quoted "Salmond on

Torts," 7th ed., at p. 38, where the learned author said: "The danger must be imminent and the plaintiff must have had but a short interval in which to grasp the situation. He must not have time to think." With regard to that passage the learned Lord Justice said: "If that is intended to be a general proposition and to apply to such a case as the present, in my opinion it is wrong." He went on to point out that it would be a very strange doctrine if the man who thought over all the circumstances before rescuing a person from drowning were not to be entitled to damages from the person whose negligence caused the drowning, while the person who acted immediately was to be entitled. He added that the result would not necessarily have been otherwise if the plaintiff had been a layman instead of a policeman on duty, but the question did not arise. "My present view," he said "is that a rescuer, who acts on such a moral compulsion that having regard to his powers and his opportunities he would feel disgraced if he merely stood by, would be entitled to succeed in such an action as this; but that is only my present view, and the point does not arise for decision."

The clear indication in these judgments that an emergency action need not be instinctive and immediate in order to avoid being a *novus actio interveniens*, and that a moral duty may in certain circumstances make an emergency action the action of a "reasonable man" marks a distinct advance in English legal development, and illustrates the flexibility and adaptability of the English law.

Clerical Errors: Grave and Gay.

Some clerical errors have proved grave enough in their consequences. The omission or alteration of a single word has had far-reaching results. Thus in *In re Ethel and Mitchells and Butlers' Contract* [1901] 1 Ch. 945, a grant to A "in fee" was held not to pass the fee simple. It certainly seemed very hard that in such cases the omission of the one word "simple" after "in fee" should have such an effect. Others beside copying clerks must have welcomed s. 60 (1) of the Law of Property Act, 1925, which largely abolished the need for words of limitation in conveyances of freehold land.

Clerical errors can be extremely comic, and at the same time have serious potentialities. An instance of this was provided by a young reporter, who wished to praise a lady singer in the most rapturous terms. He decided to quote the line:—

"Thou wast not made for song, immortal bird."

He could never have dreamt that his eulogy might involve apologies, awkward explanations, possibly even questions under the Slander of Women Act, 1891, but it was so, for when the report appeared, it rendered the line thus:—

"Thou wast not made for song, *immoral* bird."

(The italics are, of course, our own, as generally in this article.)

One hears much, in these days of "realistic" memoirs, about "libels on the dead," and many excellent persons have contended that the law should be altered, to prevent these painful and often scandalous revelations from appearing. But what of apparent libels *by* the dead? A certain testator was concerned about the condition of the timber in his estate. In his will he inserted the following:—

"Whereas the trees of my estate are for the most part rotten and decaying, I suggest that they be cut down and supplanted as soon as possible."

No doubt a very proper and harmless expression of the testator's wishes. But, after the testator's death, a clerk, anxious to see abbreviations where there were none, copied out the sentence in this way:—

"Whereas the *trustees* of my estate are for the most part rotten and decaying," etc.

Fortunately, not all clerical errors have been of a serious nature. Now and then there occurs one which is merely amusing, not to say original. Thus, in instructions to counsel for putting an end to a marriage settlement of a childless couple came these words: "The Wife is over sixty, and is therefore past the age of child-*beating*." That might be compared to the reported dictum of a magistrate, who was trying a young man, who turned out to be a bad example of the spoilt only child. The magistrate dwelt on the joys and benefits of the large family, and compared them to the miserable plight of the young man in the dock. He is reported to have said: "Such occurrences are only too frequent in these days of *birch*-control."

Considering the number of actions for libel or slander that might have arisen out of clerical errors, the actual number appears to be disappointingly small. Perhaps one day the House of Lords will pronounce an epoch-making judgment on a case arising out of a clerical error. Possibly it will be somewhat on the lines of *Hulton* v. *Jones* [1910] A.C. 20, which is still regarded with awe and foreboding by ambitious authors.

Meantime the list remains small. Few, if any, retired generals appear to have issued writs against newspapers for describing them as "*bottle*-scarred" warriors, or, worse still, as "battle-*scared*." A paper described a famous explorer, an unusually resourceful man, as being like "Odysseus of the many *wives*." No legal consequences seem to have ensued. With equal impunity a society journal stated that a certain young lady had *marred* the eldest son of Lord X.

Modern legislation has made the way of the clerical blunderer slightly less hard. We have already mentioned s. 60 of the Law of Property Act, 1925. We might here refer to s. 9 (2) of the Bills of Exchange Act, 1882, which declared that where the words and the figures differed the words should prevail. See "Byles on Bills," 19th ed. (1931), pp. 14, 90. Such provisions should make for definiteness in interpretation, even if they do not altogether avoid disputes. See *Macmillan* v. *London Joint Stock Bank Limited* [1917] 2 K.B. 439; [1918] A.C. 777. In actual cases of discrepancies in cheques, bankers normally pay the smaller amount, or else return the cheque; the custom appears to be well recognised. On this practice, see *Macmillan* v. *London Joint Stock Bank Limited* [1917] 2 K.B. 439, at p. 457; "Hart on Banking," 4th ed. (1931), vol. I, p. 379.

There is still plenty of opportunity for the careless or over-hasty draftsman to perpetrate errors which may prove serious. The subtle but far-reaching distinctions between patent and latent ambiguities are still of practical importance. Despite the broader attitude the courts have adopted over the construction of wills of recent years, counsel arguing for a "liberal" construction may be reminded that they must not endeavour to tell the court what the testator meant to say, but what is meant by the words he actually used. Often the cause of the trouble is only a clerical error, caused by undue haste or the "human factor." So long as that factor exists, the wise draftsman will adopt some method of checking the draft of an important document, e.g., submitting it to the scrutiny of a colleague where possible.

In the Preface to the First Edition of "Hayes and Jarman's Concise Forms of Wills," dated the 7th January, 1835, the authors of that work commented on the "thankless and unprofitable" task of drawing or settling a will. Whether they would have used those two epithets, had they written to-day, is, of course, a matter of conjecture. But no task can be easy, where small errors may produce grave and far-reaching results.

Alderman Herbert Thornton Pullan, J.P., solicitor, of Bradford, left estate of the gross value of £45,539, with net personalty £44,577. He left £100 to the Baptist Church at Eccleshill.

Transfer of Action.

An appeal on an unusual point of practice—the transfer of an action from one Division to another—came before Greer and Roche, L.JJ., from Macnaghten, J., in chambers (*Societa Anonima Mateo Morandi* v. *Horner*, 79 Sol. J. 434).

The power of transfer is given by s. 59 of the Supreme Court of Judicature Act, 1925, whereby—

> "Any cause or matter may at any time and at any stage thereof, and either with or without application from any of the parties thereto, be transferred by such authority and in such manner as rules of court may direct from one Division or judge of the High Court to any other Division or judge thereof . . ."

Order XLIX, rr. 1 and 3, deal with who has authority to make this transfer.

Two modes exist. First, there may be a transfer by "order" of the Lord Chancellor," under r. 1, but there must be consent of the President of the Division from or to which the action is to be transferred.

> "Causes or matters may be transferred from one Division to another of the High Court . . . by an order of the Lord Chancellor, provided that no transfer shall be made from or to any Division without the consent of the President of the Division."

The petition is left with the Lord Chancellor's secretary at the House of Lords and the *fiat* is endorsed "Be as prayed."

But this procedure is not usual for there is a second mode under r. 3:—

> "Any cause or matter may, at any stage, be transferred from one Division to another by an order made by the Court or any judge of the Division to which the cause or matter is assigned: Provided that no such transfer shall be made without the consent of the President of the Division to which the cause or matter is proposed to be transferred."

By this rule the master could make an order of transfer, which, however, was not effective until the President of the Chancery Division gave his consent.

In the case above cited, a company in voluntary liquidation owed £18,000, including £1,533 to the *Societa Anonima*, which sued Horner, the liquidator, for negligently failing to collect a debt of £17,000 owed to the Company. The defence was a denial of the allegations. On 10th May, thereupon, the plaintiffs took out a summons to transfer the action from the King's Bench to the Chancery Division—proceeding under r. 3. The master made an order that, subject to the consent of the Lord Chancellor, the action should be transferred, and he assigned the action to Farwell, J. On 14th May, consent was obtained and on the same day the defendant, by his solicitor, informed the plaintiffs' solicitors by telephone that he proposed to appeal and sent them a notice of appeal to the judge in chambers, asking for an extension of time. The appeal was entered on 14th May, the notice received on 15th May, and the appeal was returnable on 17th May. Macnaghten, J., held that he had no jurisdiction to entertain an appeal, for once the Lord Chancellor's consent had been obtained, there could be no appeal.

The Court of Appeal reversed this order and remitted the matter to the judge in chambers.

Greer, L.J., pointed out that if the master's order had been made under r. 1, Macnaghten, J., would have been right and no appeal would lie: the Lord Chancellor's "order" would be final. But the present was an application under r. 3. There were two stages: first, an application to a master and an order by him; second, "the consent" of the President of the Chancery Division. But (subject to the cases in Ord. LIV, r. 22A),

> "Any person affected by any order or decision of a Master, may . . . appeal therefrom to a Judge at Chambers: Ord. LIV, r. 21.

This right must include a right to appeal from a master who has ordered an action to be transferred. It was only when that right of appeal was exhausted, either by lapse of time or adverse decision, that the second stage—the proviso of Ord. XLIX, r. 3— came into operation at all and the consent of the President of the Chancery Division was to be obtained. In this case that consent had been obtained before the other side had an opportunity of appealing. But this fact could not operate to make the master's order final and to deprive the other side of a right of appeal. Hence the matter still remained within the rights given by Ord. LIV, r. 21, and an appeal lay to the judge in chambers from the master's order transferring the action.

Payment out of Court.

Further to the two previous articles on payment into court published in these pages (79 Sol. J. 22 and 297), an interesting point under the new rules as to payment out of court has lately arisen. It will be remembered that Ord. 33, r. 3A, of the County Court Rules (see below) has been revoked by the County Court (No. 2) Rules 1934. The facts of the case were as follows:—A sued B for damages for negligent driving of a motor vehicle and issued his writ in the High Court. B gave notice to A under Ord. 22, r. 1, of the Rules of the Supreme Court, and paid £200 into court, denying liability. In due course, A failing to give security for costs, the action was remitted to the county court, where the learned judge found in favour of B. After the hearing B applied to have the £200 he had paid into court returned to him. The learned county court judge, although most anxious to assist B in every way, found himself in a difficulty owing to the state of the rules as they at present stand. Order 33, r. 3A, which has now been revoked, was worded as follows:—

> "Where any money has been paid into the High Court in an action or matter which is remitted or transferred to a County Court the registrar of the County Court shall, on the request of any party to the action or matter, apply to the Paymaster-General, or, where money has been paid into a district registry, to the district registrar, to transmit such money to the registrar; and such money, when transmitted in accordance with the application, shall be subject to the order of the County Court in like manner as if it had been paid into the County Court in the action or matter. An application to the Paymaster-General or district registrar under this rule shall be in accordance with the form in the Appendix."

Paragraph 8 of the County Court Funds Rules, 1934, III, provides—

> "Where money paid into the High Court in an action or matter remitted or transferred to a County Court is, pursuant to rules of Court, required to be transmitted to the County Court, the Registrar shall send to the Accountant-General at the Royal Courts of Justice, London, W.C.2 (or if the money has been paid into a District Registry, to the District Registrar), an application in Form 3 in the Appendix requesting him to transmit the money."

The important words of this rule are the words "pursuant to rules of Court required to be transmitted to the County Court," and the learned judge's difficulty, of course, was that the rule (of Court) (Ord. 33, r. 3A) under which the money could be required to be transmitted had been revoked. How could he make an order dealing with money in the High Court? The intention of the Rules Committee obviously was that the money should be transmitted to the county court, but the rule authorising application for transfer had gone by the board. The learned judge's decision forms a precedent: B's application was granted subject to the Registrar's application to the Accountant-General to have the money transmitted being successful, an ingenious and very equitable way out of a

difficult situation. With the greatest possible respect, however, there is a further way out of the seeming impasse, and, may be, it is the way which was contemplated by the Rules Committee when they revoked O. 33, r. 3A, and passed the County Court Fund Rules, 1934, III.

By s. 164 of the County Court Act, 1888 (at present still in force)—

> . . . "in any case not expressly by this Act or in pursuance thereof provided for the general principles of practice in the High Court may be adopted and applied to actions and matters."

And by Ord. 22, r. 12, of the Rules of the Supreme Court it is provided—

> "Where an action has been remitted from the High Court of Justice to a County Court, the Registrar of the County Court to which the action has been remitted shall, on the request of either party to the action, apply to the Paymaster-General (such application to be in the form in the appendix to these Rules (which may be cited as Form No. 4A in Appendix B) or as nearly as may be) to transmit any money standing to the credit of the action, to the said Registrar, and thereupon such money shall be so transmitted."

The rule under which the money could be "required to be transmitted" appears therefore to have been kept alive. It seems a pity, however, that Ord. 33, r. 3A, was revoked (even if it is redundant) as it makes researches into the rules as to payment into and out of court infinitely more complex. It must, however, be clearly understood that all the above difficulties are only technical difficulties, as in every case B would seem to be entitled to the return of his money, for by Ord. 9, r. 19, it is laid down ". . . and if the defendant succeeds the whole amount paid into court shall be repaid to him unless the court otherwise orders."

Costs.

CONVEYANCING SCALES.

BEFORE turning from this question of negotiation fees, it is as well to emphasise the fact that they are not chargeable where the solicitor merely introduces the lender to the borrower, or the vendor to the purchaser, as the case may be. Whenever the question of negotiating fees arises, it is as well to bear in mind the provisions of r. 11 of the Rules, applicable to Sched. I, Pt. I, of the Order of 1882.

Taking the case of the negotiating fee for the sale of property, we find that r. 11 states that "the scale for negotiating shall apply to cases where the solicitor of a vendor or purchaser arranges the sale or purchase and the price and terms and conditions thereof, and no commission is paid by the client to an auctioneer or estate or other agent."

The first point to be borne in mind is that the solicitor must negotiate for and arrange the price, and the terms and conditions. It is not sufficient that he simply introduces the parties and leaves it to them to work out the essentials. Thus, if A is desirous of selling his house, and asks his solicitor to find a purchaser, and the solicitor goes to B and says "I have found exactly the type of house that you are looking for" and gives B A's name and address, and a sale results, the solicitor has not earned the negotiating fee. He may have introduced B to A, but he is required to do more than that to entitle him to the negotiating fee. The same principle applies where a solicitor seeks to charge a negotiating fee in respect of a loan: see *In re Eley* (1887), 37 Ch. D. 40.

The solicitor must, therefore, negotiate between the parties and arrange the price, terms and conditions. If one may say so, the definition of "negotiation" supplied by Bowen, L.J., in the case of *Re MacGowan* (1891), 1 Ch. 105, explains exactly what is required to be done in order that the solicitor may become entitled to the negotiating scale fee: "Negotiating is that which passes between parties or their agents in the course of or incident to the making of a contract; and if the negotiation is brought to such a close as leaves the principal at liberty to say 'I accept the offer,' then the agent has done all that a negotiating agent can do, and within the meaning of the rule he has arranged the sale, the sale afterwards being effected."

The last five words of this extract should be observed and it must be remembered that the Scales under Sched. I of the Order apply only to completed transactions, so that where the negotiating solicitor in fact gets the transaction to a position where the client can say "I accept the offer," but does not do so, then, although he may have done all the work required to earn the scale fee, he will not be able to charge it. His charges in such a case would of course be made out according to Sched. II.

We now come to the General Order of 1925, which provides, *inter alia*, that mortgagors' solicitors shall be entitled to charge for negotiating a loan half the scale charge to which a mortgagee's solicitors would be entitled in respect of a loan of the same amount. The provision is simply an addition to Pt. I of Sched. I, and one is left to fit in the provision with the rules applicable—a task that is not by any means simple at times.

Rule 3 of the Rules applicable to Pt. I, Sched. I, provides the first problem. In reality there is little difficulty about this rule, for it is quite straightforward, and devoid of ambiguity. It provides that where a solicitor acts for both mortgagor and mortgagee, then he shall be entitled to charge the mortgagee's solicitor's charges, and one-half of those which would be allowed to the mortgagor's solicitor up to £5,000 and one-quarter on any excess beyond £5,000.

It is not inconceivable that a solicitor may receive instructions to find a sum of money on the security of a mortgage for a client, and that he may know another who is willing to lend, and with whom he negotiates and eventually arranges the terms and conditions of the loan. Both parties may instruct him to act for them. There seems little doubt in these circumstances but that he will be entitled to charge one and a quarter the mortgagee's scale for negotiating, that is, the full mortgagee's negotiating fee, and one-half of the mortgagor's, which is fixed by the 1925 Order at one-half of the mortgagee's scale. Thus, a loan of £3,000 would entitle the solicitor to £36 under the mortgagee's scale and £9 under the mortgagor's scale.

There would, of course, be nothing to prevent the solicitor from giving notice to the mortgagor under r. 6 electing to be remunerated according to Sched. II in respect of work done on his behalf, and yet charge according to scale so far as the mortgagee is concerned. The mortgagor is normally required to pay the mortgagee's solicitor's charges, but the mortgagee is still the client and, unless notice is expressly given to him under r. 6, the solicitor is entitled, and in fact is bound, to charge according to scale.

Company Law and Practice.

Share Certificates (I).

THE statutory duties of a company with respect to the issue of share certificates are contained in s. 67 of the Companies Act, 1929. By sub-s. (1) of that section :—

> "Every company shall, within two months after the allotment of any of its shares, debentures, or debenture stock, and within two months after the date on which a transfer of any such shares, debentures, or debenture stock is lodged with the company, complete and have ready for delivery the certificates of all shares, the debentures and the certificates of all debenture stock allotted or transferred, unless the conditions of issue of the shares, debentures, or debenture stock otherwise provide."

Sub-section (2) of that section imposes penalties for default by the company, and sub-s. (3) empowers the court on an

application by the person entitled to the certificates, to order a company on which a notice has been served requiring the issue of the certificates, and which has failed to comply, and also any officer of the company to make good the default; and the court can order the costs of such an application to be paid by the company or any officer of the company responsible for the default.

Apart from these statutory provisions, articles of association (cf. Table A, cl. 4) usually entitle a person whose name is entered in the register of members to a certificate of the shares held by him, and this is a right which if necessary he can enforce by action. A further very common provision in the articles empowers the directors to renew certificates which have been lost or destroyed on payment of a prescribed fee, and on such terms as to evidence and indemnity as the directors think fit; and it will, I think, be realised from what I shall say hereafter as to the possible liability of a company in respect of wrongly issued certificates that this power to renew lost certificates should be exercised by directors only with the greatest circumspection, and either on convincing proof of the disappearance of the old certificate or with the fullest indemnity from the shareholder who is applying for a new certificate.

So much for the statutory provisions and usual regulations relating to the issue of share certificates. The object and general nature of the issue of a share certificate were explained by Cockburn, C.J., in *In re The Bahia & San Francisco Railway Company Limited*, L.R. 3, Q.B. 584, at p. 594-5, in these words: "This power of granting certificates is to give the shareholders the opportunity of more easily dealing with their shares in the market, and to afford facilities to them of selling their shares by at once showing a marketable title and the effect of this facility is to make the shares of greater value. The power of giving certificates is, therefore, for the benefit of the company in general; and it is a declaration by the company to all the world that the person in whose name the certificate is made out and to whom it is given is a shareholder in the company and it is given by the company with the intention that it shall be so used by the person to whom it is given, and acted upon in the sale and transfer of shares." So s. 68 of the 1929 Act provides that "a certificate under the common seal of the company, specifying any shares held by any member, shall be *primâ facie* evidence of the title of the member to the shares." It is hardly necessary for me to add anything to these general descriptions of the nature of a share certificate; it is not of course a negotiable instrument or conclusive as to the title of the shareholder named therein; it serves to show on the spot "a marketable title."

It will be observed that Cockburn, C.J., spoke of it as "a declaration by the company to all the world that the person in whose name the certificate is made out and to whom it is given is a shareholder in the company." And it is from this principle that the possible liability of a company of which I have spoken and the necessity for care in issuing certificates spring; for inasmuch as it is such a declaration and inasmuch as it is issued by the company with the intention that it should be acted upon, it may raise an estoppel which will prevent the company from denying its truth as against a person who acts on it *bonâ fide* and may result in a liability on the part of the company to pay compensation for damage suffered as a result of the reliance placed on the certificate. This estoppel and the resultant liability are usually classified under two headings —estoppel as to title and estoppel as to payment—though I think the principle is in either case precisely the same. The statement of the principle is of far less practical value than a consideration of some of the cases which illustrate the results of its application, and in considering these cases it will be useful to adopt the classification I have mentioned and to deal first with the cases of estoppel as to title, and then with those in which an estoppel as to payment has arisen. I should perhaps mention that I shall not be dealing in this article with the question of forged share certificates which may well give rise to no liability in the company: see *Ruben* v. *Great Fingall Consolidated Co.* [1906] A.C. 439, and other well, known cases on this point. I had occasion recently in these columns to advert to this particular point in an article entitled, "The Improper Use of the Seal."

The case of *In re Bahia & San Francisco Railway Company Limited, supra*, is one of the best-known examples of a liability arising on the basis of "estoppel as to title." There T, the registered holder of shares, left the share certificates in the hands of a broker. A transfer of the shares to S, purporting to be executed by T, was together with the certificates left with the company's secretary for registration. The secretary wrote in the usual way to T notifying him that the transfer had been left, and receiving no answer, registered the transfer, removed the name of T and placed S's name on the register, giving him a certificate that he was the registered holder of the shares. Subsequently A purchased the shares on the Stock Exchange, and they were transferred to him by S, and A's name was registered as the holder, and share certificates were given to him. It was then discovered that the transfer to S was a forgery. The company was compelled to restore the name of the true owner, T, to the register, and was held liable to pay damages to A for the loss of the shares; the giving of the certificate to S amounted to a statement by the company, intended by the company to be acted upon by purchasers of shares in the market, that S was entitled to the shares and A having acted on that statement the company was estopped from denying its truth. The company by granting the certificate to S had made a statement that the shares had been transferred to the person to whom it was given, and that he was the holder of the shares.

The effect of the kind of estoppel which was held to arise in the *Bahia & San Francisco Railway Company Case* was further explained by the Court of Appeal in *In re Ottos Kopje Diamond Mines Limited* [1893] 1 Ch. 618. It was there pointed out that no cause of action arises upon an estoppel itself; a company may be precluded as against an innocent transferee from denying the truth of what a share certificate contains; that is to say, it cannot be in any better position than if the statement were true. The effect of this, however, is simply to oblige the company to act as if the title the goodness of which is certified were in fact good. "Until, therefore, the company did something which ought not to be done or omitted to do something which ought to be done, as between them and the true owner of the shares no cause of action would arise . . . No cause of action arises upon an estoppel itself. The court must therefore look for the cause of action elsewhere, upon the assumption that the company cannot dispute the facts stated in the certificate. There must be a refusal by the company to do what it was bound to do or a refusal by an officer of the company to do what that officer was bound to do" (per Bowen, L.J., at pp. 628-9); or as Lindley, L.J., said at p. 625, "to give a person who has dealt on the faith of the certificate a right of action against the company there must be a breach of duty towards him by the company." The facts in that case were these: A bought from B 4,300 shares in the company upon the faith of a share certificate issued by the company certifying that B was the registered owner of 4,300 shares. A tendered to the company a transfer from B to himself duly executed, together with B's share certificate; but the company having discovered that the certificate had been fraudulently obtained refused to register the transfer. It was held that the company was estopped from disputing A's right to be registered, and that A had a right of action for damages on the ground of the company's breach of duty in refusing to register a transferee who had shown what the company was estopped from denying to be a good title.

For these cases of estoppel to arise the party claiming damages must have acted on the certificate and not, however

innocent he may have been, on a forged transfer to himself in consequence of which he is registered and receives a certificate. This is illustrated by the case of *Simm* v. *Anglo-American Telegraph Company*, L.R. 5, Q.B.D. 188. There B, the buyer of stock in the company, received, in pursuance of his purchase, a transfer of the stock purporting to be executed by C, who was the registered owner of the stock to the amount purchased. In fact, the transfer was forged by a clerk in C's employ. B having borrowed money from a bank, the stock was transferred to I as trustee for the bank, and the company registered I as the owner and issued a certificate accordingly. The advance having been repaid by B, the bank's trustee became trustee for him. The company discovered the forgery and refused to recognise I as the owner of the shares, and an action was brought by B and I to compel the company to recognise their title. The Court of Appeal held that they had no title of estoppel against the company. The grounds for the decision appear to have been twofold. In the first place B had not altered his position by reason of the statement in the certificate, and in the second place he had himself, by producing to the company a forged transfer, induced the company to insert the name of his nominee as the proprietor of the stock. The principle established in *The Bahia & San Francisco Railway Company Case* was fully recognised; it was pointed out that for a time an estoppel existed in favour of I, as trustee for the bank, because the company had issued a certificate stating that the stock was then the property of I and the bank had acted upon that certificate; and, again, that an innocent purchaser from I would have acquired a title by estoppel against the company inasmuch as he would have acted upon the faith of the representation made by the company in issuing the certificate to I. But here B had, in effect, relied on the transfer from C, as to the genuineness of which there was no representation by the company; and, moreover, B had an equal opportunity of knowing whether the transfer was genuine. A later case has, indeed, shown that in such circumstances B, though acting innocently, may find himself liable to indemnify the company for loss sustained in issuing a fresh certificate on the faith of such a forged transfer: see *Corporation of Sheffield* v. *Barclay* [1905] A.C. 392.

I hope next week to conclude this topic by noting other cases of a company's liability on the basis of estoppel as to title and considering the question of estoppel as to payment.

A Conveyancer's Diary.

Some Points on Powers of Appointment.

Some time ago I had a point put to me by a friend in Lincoln's Inn to which I had very little to say. In fact I do not know that even now I can find a satisfactory answer to the question raised. I have been reminded of it again because last week I wrote about powers of appointment, although not at all on the matters involved in the conundrum put to me. The subject of powers, however, reminded me of it, and I may try again to solve it.

A donee of a special power of appointment which is exercisable by deed only appoints the property which is subject to the power to an object of the power A.B. There is an agreement (not by deed) between the appointor and A.B. that the latter will in certain eventualities (which in fact happened) hold the appointed property for C.D., who was also an object of the power.

It is obvious that there is no appointment by deed in favour of C.D.

Then what happens?

A.B. cannot take beneficially for admittedly he is a trustee for C.D. But is the appointment (beneficially, that is) in favour of C.D. good since it is not by deed?

There is not so far as I know any satisfactory authority to help us unless it is to be found in a *dictum* (by Lord Romilly too!) in *Preston* v. *Preston* (1869), 21 L.T. 346.

It was set up in that case that certain appointments were void because they were a fraud upon the power.

The facts in that case were somewhat complicated, but it is sufficient for the present purpose to say that a husband and wife had under their marriage settlement a power of appointment over the settled funds in favour of such one or more inclusively of the other or others of the children of the marriage as they should jointly by deed or as the survivor should by deed or will appoint. The husband and wife made appointments in favour of objects of the power which it appeared were not in fact made for the benefit of the objects, but for their own benefit. That obviously was a fraud on the power but by a deed executed by all the children the appointments were ratified. One of the children, however, was an infant at the date of the deed, but he did in fact execute it after coming of age. Then some years afterwards the quondam infant sought to set the appointments aside. I need not enter into the evidence, but the court held in fact that the plaintiff was bound by the deed of ratification which had not, so it was held, been obtained by undue influence and in any case the plaintiff could not after the lapsed time (it was about seven years) make any successful claim to have the appointments set aside.

It transpired, however, in the course of the proceedings, that a part of the funds appointed to one of the sons was sold and a portion of the proceeds applied for the benefit of another son, the remainder being paid to the father. The contention was, on that point, which is material for my present purpose, that to the extent to which the latter son benefited the appointment was good as being in effect an appointment to him.

This is where Lord Romilly's *dictum* came in—"It would, I think, be contrary both to principle and authority if an appointment to one object of the power could be supported by the application of money raised by the appointee on the share so appointed for the benefit of another object of the power nowhere mentioned in any of the deeds of appointment. It is, I think, unquestionable that to render this valid as an appointment it must be put in writing according to the express words of the power; this is, I think, distinctly established by the case of *Topham* v. *Duke of Portland*, 21 Beav. 525."

Now so far as "principle" is concerned I do not propose to offer any opinion. It is a vague word and may mean anything. "Authority" I can understand, but I do not see that the case referred to by Lord Romilly is any authority for the proposition which he propounded.

That was an interesting case. The then Duke of Portland had a power of appointment amongst his younger children and he appointed a double share to one of such children. It appeared that one-half of that double share was to be held (although this did not appear from the appointment) in trust and the income accumulated during the life of the Duke and twenty-one years afterwards or until the successor in title to the Dukedom should direct in trust for another child who had been excluded from the appointment because of an intended marriage of such child to which the Duke objected.

The court held that the appointment was invalid because "the donee of a power cannot exercise it for an object foreign to the purpose for which it was intended, and, therefore, an ordinary power in a marriage settlement of appointment amongst the children cannot be made subservient to the accomplishment of any particular fancies or inclinations which the donee of the power may have as to the profession in life which a child may choose to adopt nor can it be exercised in such a manner as to prevent a child marrying a particular person."

It may be said also in passing that it was also held that an appointment to one object of a power in trust for another but intended to bring about a purpose not warranted by the power could not be treated as an absolute appointment to the latter object discharged of the unauthorised purpose.

I must confess that I do not understand all this polemical nonsense. The father and mother of a family provide the funds settled by their marriage settlement and reserve to themselves or the survivor of them the power to appoint in any way they please between their children and may leave anyone or more of them with nothing. What then is the "purpose" of the power of appointment given to them. It is probably first and foremost to provide the parents with a means by which they may "prevent a child marrying a particular person." Further, I should have thought that the very purpose of the power is to make the children "subservient to the accomplishment of any particular fancies or inclinations" of the parents. In fact, of course, no one disputes that. The parents may appoint to any one or more of the children, leaving out the others altogether, but if they do not wish to do that they cannot apparently cut them out only provisionally upon their complying with conditions which the parents think it advisable to impose.

There is, nevertheless, as it appears, a distinction to be drawn between "purpose" and "motive."

In *Topham* v. *Duke of Portland*, Turner, L.J., said: "We were much pressed in the arguments before us with the danger and inconvenience which may be attendant upon examining into motives by which the donees of powers may have been influenced in the exercise of them, and I agree that there would be both danger and inconvenience in such an examination; but it is one thing to examine into the purpose with which an act is done and another thing to examine into the motives which led to that purpose; and what we have to do in this case is to look to the purpose of the act which was done and not to the motive which led to it."

Well, how, in such a case, can anyone distinguish between "purpose" and "motive"? I do not know.

So, in that case, the "purpose" of the Duke of Portland, who wished to benefit his daughter upon certain conditions, could be examined into, but the motives which led him to impose the conditions could not. The motives may have been (probably were) excellent and the purpose which depended on the motives may have been equally so.

Generally, however, in these days, the power is framed so as to give the donee of it a power to impose conditions, and it has been held that in such a case the donee can make the exercise of the power subject to such conditions as he pleases: see *Wainwright* v. *Miller* [1927] 2 Ch. 255.

Landlord and Tenant Notebook.

Landlord's Collateral Promises.

A CERTAIN amount of talk and/or correspondence precedes the granting of every lease. And most practitioners are familiar with the tenant client who comes to complain of the non-fulfilment or untruth of some verbal undertaking or statement made by his or her landlord before execution. The practitioner at once thinks of *De Lassalle* v. *Guildford*, a decision which was an eye-opener to many. But the authority in question did not create any new law; rather, it showed us how difficult it can be to say whether a statement or promise is collateral or not. It has since been applied in *Henman* v. *Berliner* [1918] 2 K.B. 236, but some of the older cases go further than either of these.

The facts of *De Lassalle* v. *Guildford* [1901] 2 K.B. 215, C.A., were that the defendant, before granting a lease of a dwelling-house to the plaintiff, wrote a letter stating that the drains had been tested and put in good order; the plaintiff not being satisfied with this, he gave his word, at an interview, that the drains were in perfect condition; and the plaintiff then executed the lease. The reserved judgment of the Court of Appeal, delivered by A. L. Smith, M.R., first examined the question whether there was a warranty, and decided that as there was a statement of a fact to one who was ignorant in the matter, made in the course of negotiation, and inducing the ignorant one to enter into a bargain, there was a warranty which formed part of the contract. Then, as to whether it was collateral or not: as the lease did not cover the whole ground, and was silent on the subject of the drains, the warranty remained uncontradicted, and was therefore enforceable. Authorities cited, with approval, were *Morgan* v. *Griffith Erskine* v. *Adeane* (these two being described as "the rabbit cases"); and *Angell* v. *Duke*.

Before discussing these, however, and several decisions which intervened between them and *De Lassalle* v. *Guildford*, I might mention two older authorities which show what can be done to help deluded tenants in such circumstances. In *Seago* v. *Deane* (1828), 4 Bing. 459, the facts were typical of many people's troubles. The plaintiff had taken a house at £39 a year after the landlord had verbally promised to pay her £20 for repairs she was to effect and to make alterations and improvements himself to a cellar. He broke both promises, but promised, when reminded, to pay the £20. In answer to her claim he set up the absence of writing and the plea that she was attempting to add to the lease. The former was answered by performance. The latter, described by Best, C.J., as an iniquitous objection, but one which must prevail if sound, was disposed of by invoking the subsequent promise as an admission of an account stated!

Another case in which a tenant succeeded in enforcing a verbal promise was *Dendy* v. *Cary* (1863), 9 Jur. (N.S.) 845. The premises were a house and grounds, the house having been built by a previous tenant in 1830, under a since forfeited ninety-nine-year lease. He had built it on the faith of a promise that a road providing a better approach than the premises enjoyed would be made over adjoining land by the landlord. When the plaintiff's predecessor negotiated a lease in 1852, this had not been done, though plans had been made and the local board of health advised, and the landlord represented to her that the road would be completed. She executed the lease, without insisting on stipulations as to the road, in 1853; in 1854 the road was finished, and spent a few hundred pounds in adapting her house accordingly; in 1861 disputes arose between the plaintiff and the landlord and the landlord stopped up the road, for which the plaintiff sued him. Held, that specific performance of the representation made and acted upon would be granted.

Now come the rabbit cases. *Morgan* v. *Griffith* (1871), L.R. 6 Exch. 70, concerned an agreement for a lease of grass land. On the strength of this agreement, the lease to be signed later, the plaintiff entered at Michaelmas, 1867. The defendant presented the lease before Ladyday, 1868, but the plaintiff refused to execute it because the land was overrun with rabbits; he paid the rent, but declared he would leave unless the rabbits were destroyed. At Michaelmas the plaintiff again refused to sign; the defendant then promised faithfully that the animals would be destroyed; the plaintiff asked for a clause to be inserted to that effect; defendant refused, renewing his verbal promise; and the plaintiff signed. The promise was not kept. The lease reserved (as was then permissible) all game.

There were, of course, two obstacles in the plaintiff's way. One was the lease; but it was held that though affecting the mode of enjoyment of the land, the promise was collateral. The other was the question of consideration; but here the court held that as equity would not have granted specific performance, and a court of law would have awarded nominal damages only, his signing of the lease was a *quid pro quo*.

The authority has been much followed, but it seems open to question. The ruling on the collateral promise point is certainly far-fetched. The soundness of the decision on the other point depends on what the original agreement for a lease provided. The report definitely says a lease to be signed—not to be agreed; so presumably it was already agreed. The plaintiff having entered under that agreement,

and no warranty or representation as to rabbits having then been made, would even a Court of Equity allow him to introduce a new term or else escape liability? And with regard to the nominal damages, are we not taught that reality, and not value, of consideration is what matters?

Erskine v. *Adeane* (1873), L.R. 8 Ch. 756, which followed *Morgan* v. *Griffith*, differs in one respect; for in this case the discussions and promises as to rabbits were undoubtedly held and made before the grant. The lease itself reserved the right to shoot and sport, but gave the tenant the right to keep down rabbits otherwise than by shooting; however, here again, on the ground that there was no contradiction, the promise was held to be collateral.

Disappointed tenants had now, as it were, had their hopes raised, and two more cases followed quickly. But the first of these, *Mann* v. *Nunn* (1874), 43 L.J.C.P. 241, has since been disapprovingly referred to (in *Angell* v. *Duke*, *infra*); and the enforcement of promises to do all that the local authority might require under the public health legislation, and to make the premises wind and watertight, does strain one's conception of collateral when the promises are followed by a written tenancy agreement containing an unqualified tenant's repairing covenant. The other case, *Angell* v. *Duke* (1875), 32 L.T. 25 and 320, began with a demurrer to a claim by a tenant of a furnished house whose claim alleged breaches of verbal agreement to supply more furniture and of a warranty as to the condition of the premises; these were at first held collateral, on the authority of *Morgan* v. *Griffith*, *supra*; but the second report informs us that the plaintiff was non-suited at the trial, and deals with his motion to set the non-suit aside. On this occasion, while some of the judges appear to have been under the impression that the original demurrer decision was limited to another question, that of writing to satisfy the Statute of Frauds, all took the view that the promise was decidedly not collateral, and Blackburn, J., spoke disapprovingly of *Mann* v. *Nunn*, *supra*. The reports would be more satisfactory if they told us more about the terms of the tenancy, but, on the face of it, a promise to repair and to supply additional furniture would be one which would conflict with those terms.

Another case which was possibly *a sequela* of *Morgan* v. *Griffith*, was *Carter* v. *Salmon* (1880), 43 L.T. 490. Here the tenant alleged that while he had undertaken to keep the premises in repair and the landlord to put them in repair, both covenants being in the lease, there was a verbal agreement that no rent should be payable till the landlord's obligation was fulfilled. As his opponent was a mortgagee of the reversion who had had no notice of any such agreement, his position was hopeless in any event; but apart from that, it was pointed out that the oral arrangement would clash with the written reddendum and would on that ground be unenforceable even against the original landlord.

Our County Court Letter.

THE DEFINITION OF ACTUAL POSSESSION.

The principle of *Kearns* v. *Bedford* (1934), 50 T.L.R. 348, was recently followed in *Phillips* v. *Moore* at Wellington (Somerset) County Court. The claim was for possession of a cottage, which the defence alleged was still controlled. The plaintiff's case was that the cottage was one of a row of three, and was overcrowded by reason of being occupied by the defendant, his wife and six children. The cottage had been previously vacated on the 25th March, 1928, when the plaintiff had possession of the key, and the cottage was furnished and cleaned. The defendant had then entered about the 28th March, 1928, and the rent was increased by mutual agreement in 1933 from 3s. to 4s. a week. The defendant's case was that he had been given the key by the plaintiff, the day after the previous tenants left, and he retained it until he went into possession. A few repairs were done by a mason and carpenter, but he paid rent from the 25th March, 1928. His Honour Judge Wethered observed that the length of time the plaintiff had the key was immaterial, and even on the defendant's version—the cottage was decontrolled. By consent, an order was made for possession on the 24th June, and for payment of 18s. 10d. mesne profits to date, with costs.

THE RIGHTS AND LIABILITIES OF HAIRDRESSERS.

In the recent case of *Brown* v. *Jeffries*, at Birmingham County Court, the claim was for £99 as damages for negligence, whereby the plaintiff had suffered injuries, which had caused loss of employment as a pawnbroker's assistant. The plaintiff, who was aged thirty-six, had explained to the defendant (trading as Constance Permwell) that her hair had already been henna tinted, and the plaintiff's case was that she was persuaded to have her hair permanently waved by the Superma method, which the defendant said would leave no ill effects. Having undergone the four-hour process at a fee of one guinea, the plaintiff subsequently found that her hair was harsh and brittle, and was all sizes, lengths and colours. Her scalp was sore and painful, and her expert evidence was that it would cost £15 to £20 to restore the hair to its original condition, viz., grey. The defendant's case was that she had not advised a permanent wave, which had been done on the plaintiff's own initiative. Two locks of the plaintiff's hair had been waved, but the result was unsatisfactory, and the plaintiff was told the process would be an experiment in her case. His Honour Judge Ruegg, K.C., held that the plaintiff had voluntarily consented to the process, and could not complain of its failure. Judgment was given for the defendant, with costs. Compare a case noted under the above title in the "County Court Letter" in our issue of the 4th May, 1935 (79 Sol. J. 317).

THE PASTURAGE OF SHEEP ON COMMONS.

In a recent case at Okehampton County Court (*Sharp* v. *Harvey*) the claim was for £18 6s. 8d. as damages for trespass, and the counter-claim was for £5 as damages for negligence, whereby certain sows of the defendant had been injured. The plaintiff's case was that his clover was damaged to the extent of £4, and his cabbages to the extent of 22s., by the defendant's sheep, which entered the plaintiff's fields through land of one Lowe, in May and June, 1934. The defence was that the sheep entered the fields through no fault of the defendant, but by reason of the neglect of Lowe to fence his land against the common, upon which the sheep were lawfully grazing in pursuance of a right of common. In a reserved judgment, His Honour Judge Wethered observed that both the plaintiff and the defendant had a right to pasture their beasts upon the commons of Chagford and Dartmoor. By custom, the occupiers of fields adjoining the commons were obliged to maintain "a fair fence" against the moor. So far as the defendant's sheep entered the plaintiff's land through the plaintiff's field, and did damage, the defendant had a complete answer, as the damage was due to the plaintiff's own omission to fence. The question whether the defendant was liable for sheep, which gained access to the plaintiff's land indirectly (through the fields of a third party, Lowe) raised an important point as to the liability to fence. Ordinarily, anyone who brought cattle upon his land must keep them in at his own peril. An exception arose in the case of cattle lawfully pastured on commons, and escaping therefrom owing to the failure to fence on the part of an occupier of adjoining land. The occupier of such land (Lowe), in failing to maintain "a fair fence," had neglected a positive duty he owed to the commoners. Whichever way the defendant's sheep entered the plaintiff's land, there was no negligence by the defendant, who had been exercising a customary right, and was therefore

entitled to judgment (on the claim), with costs. On the counter-claim it was held that the alleged damage was too remote, and the counter-claim was accordingly dismissed, with costs.

RECENT DECISIONS UNDER THE WORKMEN'S COMPENSATION ACTS.

THE CERTIFICATES OF CERTIFYING SURGEONS.

In *Dean* v. *William Harrison Limited* at Walsall County Court, an award was claimed of 30s. a week, on the ground that the applicant had had nystagmus in 1925, and was paid 30s. a week (based on average weekly wages of £4 15s. 8d.) until October, 1926. He then returned to work as a dataller, at 9s. 2d. a shift, but had to cease work on the 11th September, 1934, since when he had received 19s. 9d. a week based on average weekly wages of £1 8s. 7d. for the previous twelve months. On the second occasion of ceasing work he obtained from the certifying surgeon a certificate, dated September, 1934. The applicant's case was that he was entitled to compensation at the higher rate, viz., that paid in 1925, as the incapacity had partially continued throughout, and this was recognised by the respondents, who had employed the applicant as a dataller, but had paid him the higher minimum wage of a stallman. The respondents' case was that datallers and stallmen were paid the same, and, unless the certifying surgeon gave a specific date as the beginning of the incapacity, the latter must be taken as starting at the date of the certificate. The applicant was therefore only entitled to compensation on the 1934 basis, and not upon that of 1925. His Honour Judge Tebbs gave judgment for the respondents, with costs. Compare *Wilsons and Clyde Coal Co. Ltd.* v. *Flynn* [1930] A.C. 516; *Wemyss Coal Co. Ltd.* v. *Haig* [1933] A.C. 643.

DEPENDENCE OF WIVES AFTER SEPARATION.

In *Hardy* v. *Stanton Ironwork Co. Ltd.* at Mansfield County Court, the applicant's case was that her deceased husband was killed in a colliery explosion, and the respondents had paid into court £300 in respect of the three older children, but had disputed liability in respect of herself and the youngest child. In 1925 the applicant had obtained a maintenance order of 25s. a week, but a reconciliation took place in 1929. While the applicant was in hospital, for her last confinement, the deceased broke up the home, sent the three older children to the workhouse, and then lived with another woman until his death. The applicant subsequently worked as a waitress at Blackpool and Nottingham, and had lived with another man, but she and the deceased were nevertheless planning to live together again, and he had paid her certain amounts before his death, while she was again in hospital. The respondents contended that the latter sums were casual payments, rather than maintenance, and that the evidence of a second reconciliation was a fabrication. The deceased had paid no maintenance to the applicant for five years, and her youngest child had been adopted by other people. His Honour Judge Hildyard, K.C., held that the applicant and her youngest child were not dependants, and judgment was given for the respondents, with costs.

The *News-Sheet* for June of the Bribery and Secret Commissions Prevention League states that the number of convictions for bribery to date under the Prevention of Corruption Acts, 1906-16, were: England, 611; Scotland, 49; Wales, 38; Irish Free State, 21; Northern Ireland, 9. Under other (a dozen) Acts since January, 1907, at least 100. Total, 828. There were under the Prevention of Corruption Acts: 4-Police cases, 332; official cases, 261; private, 135; sent to prison, 171. Fines and costs, where stated, amounted to £28,824. In 155 cases there was no conviction, although occasionally orders were made to pay costs and actually guilt was admitted.

Reviews.

Elements of Insurance Law. By M. P. Picard, LL.B., Bacon Scholar of Gray's Inn, Barrister-at-Law. 1935. Demy 8vo. pp. xii and (with Index) 178. London: Sweet & Maxwell, Ltd. 7s. 6d. net.

This volume deals with all insurance risks other than marine. It embodies a concise outline of the subject for the use of students, the principles being illustrated by excerpts from reported cases. Two appendices are added, the first containing specimen forms of proposals and policies; the latter a large number of leading cases with a concise statement of the proposition for which each case is an authority. We have no criticism to offer upon what seems to us to be a diligently prepared outline of the law put together in a manner likely to prove attractive and helpful to the student.

Wertheimer's Law Relating to Clubs. Fifth Edition. 1935. By Maxwell Turner, of the Inner Temple, and A. S. Wilson, of the Middle Temple, Barristers-at-Law. Demy 8vo. pp. xvi and (with Index) 236. London: Sweet & Maxwell, Ltd. 10s. 6d. net.

The fact of this work having run into a fifth edition is sufficient indication of the place it holds among legal text-books. Since the last edition was published various things have happened which have been dealt with as new matter. The Unemployment Insurance Act, 1920, and the Licensing Act, 1921, have an important bearing on clubs. The advent of the "totalisator" has also given birth to a new type of club. The authors have embodied in the Appendix a set of specimen rules for sports clubs. Case law is abundant—over 400 decisions being cited; and every aspect of clubs in their legal position is fully and effectively dealt with.

Laughter in Court. By Dudley Barker. 1935. Foolscap 8vo. pp. vii and 174. London: Methuen & Co., Ltd. 5s. net.

This little book will be extremely welcome to many besides those who have already appreciated "My Notebook Round the Courts" in the *Evening Standard*. It should be read by every young advocate who may be called on to appear in a police court, though he should beware of allowing the author's sympathetic pen to lead him to count on finding an invariable atmosphere of preternatural benevolence. The individual impressions of the stipendiary magistrates of London have a permanent value, and the future legal historian of our times will certainly find it worth his while to glance at this record of the laughter and tragedy which the streets of London constantly pour into the police courts.

Books Received.

The Journal of Comparative Legislation and International Law. Third Series. Vol. XVII, Pt. II. May, 1925. Edited by F. M. Goadby, D.C.L. London: Society of Comparative Legislation. Issued to subscribers only.

Powers of Attorney. By F. Bower Alcock, of Gray's Inn, Barrister-at-Law. 1935. Royal 8vo. pp. xxxiv and (with Index) 291. London: Sir Isaac Pitman & Sons, Ltd. 21s. net.

Modern Equity, being the Principles of Equity. By Harold Greville Hanbury, B.C.L., M.A., Fellow of Lincoln College, Oxford, of the Inner Temple, Barrister-at-Law. 1935. Royal 8vo. pp. l and (with Index) 735. London: Stevens & Sons, Ltd. 30s. net.

The Law of Fire Insurance, in the Form of a Digest with Explanatory Notes. By Sanford D. Cole, Barrister-at-Law (formerly a solicitor of the Supreme Court). 1935. Demy 8vo. pp. (with Index) 157. London: Sir Isaac Pitman & Sons, Ltd. 6s. net.

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to the Editorial Department, 29-31, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Mortgage—Vacating Receipt—Payment expressed to be made by Person entitled to Immediate Equity of Redemption and Others—Effect when Mortgage Money advanced to that Person and those Others.

Q. 3174. By a legal mortgage made in 1931 between A, B and C of the one part and an industrial insurance company of the other part, A, B and C assigned certain certificates held by them in such company to secure repayment of a loan made to them by the company, and the mortgage also contained a demise by way of mortgage by A to the company of his freehold dwelling-house for the term of 3,000 years in consideration of the said loan. In 1933 the mortgage was discharged by a statutory form of receipt endorsed thereon and sealed by the company. Such receipt stated that payment had been made by the within-named A, B and C. In view of sub-s. (2) of s. 115 of the L.P.A., 1925, doubts have arisen as to the effect of such receipt in discharge, and whether the same is effectual to discharge the mortgage or operates as a transfer of the mortgage to A, B and C. A has since conveyed the premises to D, and D is now under contract to sell to E. It is desired to know whether any legal estate is outstanding in A, B and C by virtue of the receipt in discharge, and, if so, what should be done to give E a title clear of all incumbrances.

A. It is agreed that the effect of the receipt is rather obscure, and that in view of the fact that the money is expressed therein to be paid by a person entitled to the immediate equity of redemption (in the house) *and others*, it probably operated as a transfer. It is suggested that it would be prudent to procure the concurrence in the conveyance to E of A, B and C, to release the property from such claims as they or any of them might have thereon, and to assign the term so as to merge in the freehold reversion immediately expectant thereon in so far as not already so merged.

Will—Settlement—Death of Life Tenant—Cesser of Settlement—Title—Will of Remainderman who Predeceased Tenant for Life creating Trust for Sale.

Q. 3175. Testator L made his will in 1874, leaving certain freehold premises upon trust for his daughter M for life and then upon trust for his son T absolutely. The testator died in 1874 and his will was duly proved, the present trustees thereof being A and B. The son T made his will in 1876, leaving all his estate upon trust for sale and division amongst his children, and died in 1883. His will was duly proved, but it is not now known who are the trustees (if any) of his estate. The life tenant M died in 1934, having made a will appointing A as her executor. Her will has been duly proved by A, and it is now desired to sell the freehold premises and pay the proceeds of sale to the beneficiaries entitled under the will of testator's son T, some of whom are abroad. Kindly advise if A can sell as personal representative, as the settlement came to an end on the death of the life tenant M (A.E.A., 1925, and *Re Bridgett & Hayes' Contract* [1928]), and if so, whether recitals should be inserted in the conveyance showing the trust for sale which arose under the will of testator's son T.

A. A can certainly make a good title to a purchaser (*Re Bridgett & Hayes' Contract*, 71 Sol. J. 910). The recitals in the conveyance will be directed to show that A is the personal representative of a deceased life tenant under a settlement which came to an end with the death of that life tenant. For this reason it seems desirable to show the terms of the will of T to make it clear that there was no compound settlement. We would observe that M took the legal estate on 1st January, 1925, under L.P.A., 1925, Sched. I, Pt. II, paras. 3 and 6 (*c*).

Effect on Private Restrictions of a Town Planning Scheme.

Q. 3176. "W—— G——" is subject to a restrictive covenant as between a vendor and purchaser which provides that it shall be used only as a private dwelling-house. A scheme under the Town and Country Planning Act which comprises the district in which "W—— G——" is situate, provides that this house, which is large and in large grounds, may be used as an hotel. The vendor contends that this provision of the scheme enables him to over-ride the private restrictive covenant. Is this so? Authorities would oblige. Are there any authorities which suggest that by reason only of a house being scheduled under a Town Planning Act as being allowed to be used as an hotel, is sufficient change in the character of the property or the neighbourhood within the meaning of s. 84 of the Law of Property Act, 1925, that the restriction ought to be deemed obsolete, or the continuation would impede the reasonable user of the land within the meaning of that section?

A. We do not think that the contention of the vendor can be justified. We have not been able to trace any authority to support it. We do not think that the provisions of a town planning scheme alone are enough to support an application of the modification or discharge of restrictions. A restriction is not obsolete unless and until its subsistence is valueless: *Chatsworth Estates Co.* v. *Fewell* [1931] 1 Ch. 224. To succeed on the ground of impeding reasonable user it is apparently necessary to show not only that reasonable user is impeded, but also that no practical benefits are secured to other persons by the subsistence of the restrictions: L.P.A., 1925, s. 84 (1) (*a*).

Pre-1925 Will—Application of *Shelley's Case*—Life Estate by Implication, Limitation to Heirs by Use of Word "Issue."

Q. 3177. By his will made in 1925, A.B., after directing his executors to pay from the proceeds of his estate certain specific legacies, and after giving and bequeathing the sum of 10s. per week to his two brothers during their life, then on the death of the survivor of these two brothers the testator directed: " . . . that the whole of my estate then remaining be handed over free from incumbrances to D.H. and at her death pass to her issue (if any)." D.H. is the testator's illegitimate daughter. Testator died on the 6th July, 1925, and his will was proved in September, 1925. The question has arisen as to whether or not in view of the last condition of the bequest, D.H. is only entitled to a life interest in a small plot of real estate or would the ruling in *Shelley's Case* apply in such a way as to give D.H. an absolute fee simple interest in such estate. D.H. is a spinster and if she be entitled to a life interest only can it be contended that on her decease without children she would acquire an absolute interest or who would be entitled to the remainder? The trustees' solicitors are prepared to give an assent vesting the property in D.H. absolutely. Should this be accepted?

A. We express the opinion that the rule in *Shelley's Case* applies to giving D.H. the fee simple. It is suggested that

there is a sufficient estate in the ancestor, seeing that D.H. takes a life interest at least (by implication if not expressly). An estate by implication is adequate for the purposes of the rule: *Pybus* v. *Mitford*, 1 Vent. 372. So also the limitation to heirs seems to us sufficient. In such a position the word "issue" is *nomen collectivum*, and (if not affected by context) is synonymous with "heirs of the body" and is in a will adequate for the purposes of the rule: *Van Grutten* v. *Foxwell* [1897] A.C. 658; *Roddy* v. *Fitzgerald* (1857), 6 H.L. Cas. 823. The absolute assent may, in our opinion, be accepted. It is assumed for the purposes of this reply that the two brothers are now dead.

Compensation for Demolition.

Q. 3178. In 1925 a plan was submitted to the local council for approval of the proposed roads on a private building estate. On the plan a road was shown which would have gone over the site of a cottage, which our client now wishes to purchase. The developers have given up the idea of making this particular road. There is no town planning scheme yet in operation, nor is there any widening scheme or building line prescribed. No notices have been served. The council say that the plans were approved on the assumption that the developers intended to dedicate such land for use as a public road, and they suggest that they have a right (if and when the road is made up to the full 40 feet) to demolish the cottage without payment of compensation. We shall be glad to have your views as soon as possible.

A. There is no suggestion that the cottage is unfit for human habitation, and it is not within the area of a clearance order, so that the claim to demolish it will be difficult to substantiate. The cottage was also not built upon the site or soil of an existing road, and there is no "relation back" of any right to demolish, i.e., the latter is not retrospective. Whatever is done in future, with regard to dedication of the road, will not create the alleged right to demolish. The submission of the plans did not imply any undertaking by the developers to proceed with the works, and the approval of the local authority has lapsed. No estoppel was raised against the developers or their successors in title, and no land charge appears to have been registered. The claim of the council appears to be unfounded.

Tenant's Right to Recover Overpaid Rent where Class "C" House not Registered.

Q. 3179. A is the owner of a house in Norfolk with a rateable value of under £13. By an agreement under hand dated the 11th March, 1933, A agreed to let the house to B for the term of three years from the 6th April, 1933, at the rent of £18 4s. per annum. The house has not been registered by A in accordance with the provisions of s. 2 (2) of the Rent etc., Restrictions (Amendment) Act, 1933, and consequently, would appear to be a controlled house, although A obtained possession and entered into a written agreement for more than two years as defined in s. 2 (2) of the Act of 1923. In October, 1934, B quit the premises without the consent of A, with only a week's notice, and consequently is liable for rent until January, 1935, when a new tenant was found by A. When A demanded this rent he was met by the reply that the house was a controlled one, that the rent payable under the agreement was considerably in excess of 10 per cent. more than the standard rent (which was £7 16s.) and a claim for refund of the excess. Can such a refund legally be claimed in these circumstances?

A. As the rateable value of the house does not exceed £13, and as it was not registered with the local authority in accordance with the provisions of s. 2 (2) of the Rent and Mortgage Interest Restrictions (Amendment) Act, 1933, it is to be deemed a dwelling-house to which the Rent Restrictions Acts apply. Unless and until a certificate is obtained from the county court that there was reasonable excuse for the failure to make application for the registration of the house within the time limited, the house is, therefore, subject to the Acts. Consequently, the restrictions on rent apply, and the tenant would appear to be entitled to claim a refund of any excess rent under s. 14 (1) of the Act of 1920, as amended by s. 8 (2) of the Act of 1923.

Objection to Clearance Order.

Q. 3180. The local council have made clearance orders under s. 1 of the Housing Act, 1930. We are acting for all the owners concerned, on whose behalf objections have been lodged with the Ministry of Health. Some of these owners are members of the council. At a recent meeting of the council's housing committee (which comprises the whole council) called for the purpose (*inter alia*) of deciding whether the clearance orders should be forwarded to the Minister of Health for confirmation the chairman called the attention of members to the provisions of s. 76 of the Local Government Act, 1933, and ruled that certain members present, because of their ownership in some of the properties in question, were disabled from voting on or taking any part in the discussion or consideration of the matter. The housing committee decided to recommend the council to forward the orders to the Ministry for confirmation; but in view of the fact that there was evidence of much opposition, both in and outside the council, at that time to the council's proposals, it is considered that, had not the chairman given the ruling referred to, it is quite possible the decision of the committee would have been against the orders going to the Minister for confirmation. Was the chairman's decision, in your view, correct, and, if not, does such decision prejudice the council's case if the point is taken on behalf of the objectors at the public inquiry?

A. The question depends on the interpretation of "other matter" in s. 76 (1) of the Local Government Act, 1933. If "other matter" is to be regarded as *ejusdem generis* with "contract or proposed contract," the ruling was incorrect. There appears to be no ground, however, for so limiting the scope of the above words, and, in their ordinary and natural meaning, they are wide enough to cover a clearance order. The opinion is therefore given that the chairman's decision was correct. The point as to the council's case being prejudiced does not therefore arise.

Cost of Storage of Motor Car.

Q. 3181. Our clients are motor engineers. About sixteen months ago a man, who was a stranger to them, brought a car to their garage for repair. It was discovered that a new back axle was required, and this the man said he would supply for our clients to put in. They heard nothing further, their letters being returned from the address given. They eventually discovered the man's whereabouts, and, after writing him, took proceedings against him for the cost of garaging the car, and obtained judgment, which remains unsatisfied. The car is of little value, and is taking up valuable space in a covered garage. Our clients have suggested to the man that they should sell the car for what can be obtained for it, and the amount realised placed to his credit. He states he is not in a position to consent to this. It is presumed, therefore, that the car is subject to a hire-purchase agreement. The man has been applied to, but will not say who the owner of the car is. Our clients are anxious to move the car from its present position, but do not like to run the risk of placing it in an open yard, where it would be subject to the weather. Can any course be suggested for them to adopt to enable them to get rid of the car, and, at the same time, protect themselves from any action by the true owner?

A. The only course appears to be to instruct the High Bailiff to levy execution on the car in pursuance of the judgment. An indemnity would probably be required, in the event of any proceedings by the supposed true owner, but it is doubtful if the latter would take proceedings—on ascertaining that the car had been sold on the instructions of the High Bailiff.

To-day and Yesterday.

Legal Calendar.

24 June.—A murder mystery came to its judicial conclusion on the 24th June, 1700, when Michael Van Berghen, Katherine, his wife, and Gerrard Dromelius, employed by them as a drawer, were condemned to death at the Old Bailey for murder. A gentleman had imbibed too much at Van Berghen's drinking-house in the sinister riverside quarter beyond the Tower. Late at night there had been a quarrel over some money he said he had lost. From her bed, the maid heard a bustle, and next morning she noticed the room was freshly washed. The gentleman's mangled body was found in a ditch running into the Thames. After sentence, Dromelius took all the blame, but his confession was discounted on account of a liaison with his mistress.

25 June.—There was plenty of material for melodrama in *The King* v. *Phillips*, a prosecution for libel tried in the King's Bench on the 25th June, 1833. The allegation made by the defendant was a plain accusation against the Duke of Cumberland, the King's brother, that in 1810 he had murdered his valet in St. James's Palace in order to cover up an even more disgraceful crime. The Duke himself gave evidence telling how the man had tried to assassinate him and had then killed himself. The defendant was convicted.

26 June.—At the Middlesex Sessions on the 26th June, 1809, Charles Chisholm, "a Bond-street lounger of universal notoriety," who lodged in Blenheim-street, was tried for assaulting a Mr. Blacklin, who lived opposite. It seems that having at various times "behaved with the most reprehensible impropriety," on this particular day, he "walked backwards and forwards several times in front of the house, casting his eyes towards the drawing room where the Miss Blacklins then were." When told by the father to go away, he vaulted the railings and struck him repeatedly through the open window. He was sent to prison for two months.

27 June.—On the 27th June, 1831, Moore, J., sitting in County Clare under a Special Commission, tried Patrick Connors and John Cullinane for the murder of a gentleman named Blood. The killing had been typical of the savage methods of the Whiteboys who then terrorised Ireland. They warned his servants of their intention, compelling them to keep silence by threats. Then in the night the gang entered the parlour where he was sitting and shot and battered him to death. Afterwards they robbed his house. The prisoners were found guilty and sentenced to be hanged, after which their bodies were to be given for dissection.

28 June.—*Rassam* v. *Budge*, which opened before Mr. Justice Cave on the 28th June, 1893, was an acrimonious libel action arising out of Assyrian antiquities. The plaintiff was a naturalised British subject, born in Mesopotamia, who had carried out some excavations for the British Museum, at Abou Hubba. The defendant, an official of the museum, had alleged that he and the overseers had appropriated all the best tablets and sold them to dealers, sending mere fragments to London. After several sensational days the jury awarded the plaintiff £50 damages.

29 June.—On the 29th June, 1754, young Alexander Wedderburn was enrolled as an advocate of the Scottish Bar, where he first practised.

30 June.—"The acting junior in the commission is a spectre I started at; but the sustaining the office alone, I must and will refuse at all events. I will not give up the peace of my mind for any earthly consideration whatever. . . . Bread and water are nectar and ambrosia when contrasted with the supremacy of a court of justice." So said Wilmot, J., when, being temporarily a Commissioner of the Great Seal, it was rumoured that he was to be Lord Keeper. He remained Commissioner till the 30th June, 1757.

The Week's Personality.

But for the rudeness of Alexander Lockhart, Dean of the Faculty, and afterwards Lord Covington, there might have been no Lord Chancellor Wedderburn, and young Alexander Wedderburn might have grown old in Edinburgh as a Lord of Session. The quarrel that set him on the road to England and legal immortality came about thus. Lockhart was notorious for his brutality towards young advocates, and, at last, four young men agreed together that the first of them to be insulted by him in court should publicly resent it. The lot fell to Wedderburn, whom the older man referred to in argument as a "presumptuous boy." The young man's rejoinder was in no uncertain tone. Amongst other things, he observed: "I do not say that the learned dean is capable of reasoning," and added, "I care little, my lords, for what may be said or done by a man who has been disgraced in his person and dishonoured in his bed"—a shaft at his adversary's private life. When the President of the Court rebuked him, he declared that "his lordship had said that as a judge which he could not justify as a gentleman," and being called upon to retract, he said: "My lords, I will neither retract nor apologise, but I will save you the trouble of deprivation. There is my gown and I will never wear it more." That very night he left for London.

Animals in Court.

At Epsom Police Court recently, a man charged with gaming at "box, bat and mice" gave a demonstration of the game with three tame white mice. The entertainment thus provided for the Bench by the small rodents was not the most remarkable appearance of animals in an English court. Once at Marlborough Street, a lady naturalist summoned by her next-door neighbour for allowing snakes to escape from her premises considerably alarmed the magistrate, the opposing counsel and the police by producing a tangle of the reptiles from a box and demonstrating their tameness by allowing them to wriggle and crawl about her neck and shoulders. This convincing exhibition did not, however, move the magistrate, who ordered the lady in future to keep her snakes to herself. An American court once provided an even more extraordinary spectacle when a cat-expert, giving evidence in an action at Providence, in Rhode Island, had his knowledge tested by the production of two hundred pedigree cats. He reeled off their breeds and ages with great exactness and an admiring court accepted his evidence.

The Houses of Judges.

A literary paper recently in answer to a correspondent recalled the fact that Charles II's Chancellor, Heneage Finch, Earl of Nottingham, built Kensington Palace, which passed into royal ownership in the time of William III. This is the house which Lord Campbell, writing of its first master, described by a rather picturesque understatement as "a villa at Kensington, to which he could retire with a few chosen friends, and enjoy fresh air and repose amidst the gardens and meadows which surrounded it." Besides this great house, and even apart from the Inns of Court and Lincoln's Inn Fields, architectural monuments to men of the law are not wanting in London. There are Lord Mansfield's house at Ken Wood, Crosby Hall, now removed to Chelsea, but once part of Sir Thomas More's city house, and the chapel in Ely Place, relic of Sir Christopher Hatton's palace. But next to Kensington Palace, the greatest of them all is Apsley House, built by the most incompetent of our Chancellors, Lord Bathurst. Even in the accomplishment of this, his one claim to immortality, he was not happy, for it involved him in a lawsuit with a soldier's widow over the site, and he had to pay a sum of money to settle it. "Here is a suit by one old woman against another," said someone, "and the Chancellor has been beaten in his own court."

Notes of Cases.

House of Lords.

Penman *v.* Fife Coal Company Ltd.

Lord Tomlin, Lord Thankerton, Lord Macmillan, Lord Wright and Lord Alness. 21st June, 1935.

Workman's Wages—Deductions—Legality—Truck Acts—Acquiescence and *Mora*.

This case raised the question of the validity under the Truck Acts of certain deductions made by the respondents, the appellant's employers, from the appellant's wages on account of rent for a house owned by the respondents and occupied by the appellant's father. It was expressly found that the appellant assented to the deductions and to the application of them for the above purpose. The respondents contended that the deductions were not struck at by the Act and that even if they were the appellant had acquiesced in their being made, and was barred by acquiescence and *mora* from recovery. The Sheriff Substitute held that the deductions were illegal, null and void, and that the appellant was entitled to recover the amount thereof as wages earned but unpaid. The Second Division of the Court of Session, the Lord Justice Clerk dissenting, held that the deductions from the wages and the application thereof were not illegal under the Truck Acts. They accordingly entered judgment for the respondents. From that decision Penman appealed to the House.

Lord Macmillan, in giving judgment, said there were two questions to be decided; first, whether the deductions made from the appellant's wages were in contravention of the statute, secondly, if so, whether the appellant was barred from recovering them. On the first question the words of s. 3 of the Truck Act, 1831, were clear. After referring to *Hewlett* v. *Allen* [1894] A.C. 1811, and *Williams* v. *North's Navigation Collieries* [1906] A.C. 142, he said he had reached the conclusion that the deductions which in the present case the respondents made from the appellant's wages were in contravention of the statute and could not be justified by anything that was decided in *Hewlett* v. *Allen*, *supra*. The question next arose whether the appellant could recover the amount of the deductions. He invoked s. 4 of the Act of 1811 as amended. Here again the statute seemed sufficiently clear in its terms, but again it was said that authority provided the respondents with a means of escape. The respondents were not pleading set-off in answer to the appellant's claim. They were pleading personal bar founded on acquiescence or assent. In his opinion the respondents could not avail themselves of that plea. Under the statute the deductions were null and void. He could not see how a party by acquiescing in a nullity could give it validity for purposes of defence. The appellant's assent to the deductions was of no more avail to the respondents in the present civil proceedings than it would have been in a prosecution for penalties. The respondents had committed an illegality in withholding part of the wages. When the appellant sought to recover what had been illegally withheld the respondents could not effectively plead his assent to the illegality. He, Lord Macmillan, accordingly moved their lordships to allow the appeal to recall the findings in law of the Second Division of the Court of Session and of the Sheriff, and to restore the findings in law of the Sheriff-Substitute.

The other noble and learned lords concurred.

Counsel: *R. Gibson*, K.C., and *T. J. D. Connolly*, both of the Scottish Bar, and *Michael Marcus*, of the English Bar; *T. Graham Robertson*, K.C., and *John Cameron*, both of the Scottish Bar, and *A. M. Wallace*, of the English Bar.

Solicitors: *W. A. G. Davidson & Co.*, for *J. H. Irvine*, Edinburgh, and *William Philp*, Kirkcaldy; *Simmons and Simmons*, for *Wallace, Begg & Co.*, Edinburgh, and *Ross and Connel*, Dunfermline.

[Reported by S. E. Williams, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Thomas *v.* Sawkins.

Lord Hewart, C.J., Avory and Lawrence, JJ. 30th May, 1935.

Public Meeting—Private Premises—Anticipated Breach of Peace—Presence of Police—Preventive Power and Duty.

This was an appeal, by way of case stated, against a decision of the justices of the Newcastle and Ogmore Division of Glamorgan, dismissing an information preferred by Mr. Alun Clydwyn Thomas against Police-sergeant James Sawkins, of the Glamorgan County Police, in respect of a technical assault. At the hearing of the information it was stated that, on the 17th August, 1934, a public meeting was held at the Cærau Library Hall to protest against the Incitement to Disaffection Bill, which was then before Parliament, and to demand the dismissal of the Chief Constable of Glamorgan. Between 500 and 700 persons were present at the meeting. The public were invited to attend the meeting, no charge for admission being made. Sergeant Sawkins, the respondent, with Inspector Parry and Sergeant Lawrence attended the meeting. On his arrival at the meeting Mr. Thomas requested the officers to leave the building, but they refused to do so. He lodged a complaint against their presence at the police station, but the officers still refused to leave the hall. Mr. Thomas then laid his hand on Inspector Parry to eject him, using no more than reasonable force, and Sergeant Sawkins thereupon pushed his arm and hand away, saying "I won't allow you to interfere with my superior officer." No further attempt was made to remove the officers. On the hearing of the summons for assault taken out by Mr. Thomas against Sergeant Sawkins, it was contended, on behalf of Mr. Thomas, that the premises on which the meeting was held were private premises, to which neither the police nor the public had right of access, and that Mr. Thomas was entitled to remove any police officer who refused to leave and thus became a trespasser. On behalf of Sergeant Sawkins it was contended that the police had a right to remain in the hall because, in their judgment (based on their experience of previous meetings organised by the Communist Party at Cærau), it was anticipated that the meeting would become an unlawful assembly or a riot, or that breaches of the peace would take place, and that seditious and inflammatory speeches were likely to be made at the meeting. The justice held that the police had reasonable ground for that belief, and that they were entitled to enter the hall, and that, therefore, Sergeant Sawkins did not unlawfully assault Mr. Thomas. They accordingly dismissed the summons. Mr. Thomas now appealed.

Lord Hewart, C.J., said that the justices had ample materials on which they could come to the conclusion of fact that the police officers had reasonable grounds for believing that an offence would be committed if they did not attend the meeting. With regard to the finding that that fact entitled the officers to remain in the hall, it had been said that it was an unheard-of proposition of law, and that no authority was to be found which decided that, where an offence was reasonably expected to be committed, as distinguished from a case where an offence was being, or had been, committed, police officers were entitled to enter on premises and to remain there against the will of those who, as hirers or otherwise, were for the time being in possession of the premises. When, however, he (his lordship) looked at the authorities which had been cited—"Blackstone's Commentaries," vol. I, p. 356; *Humphries* v. *Connor*, 17 Ir. C.L.R. 1; *O'Kelly* v. *Harvey*, 14 L.R. Ir. 105; and the observations of Avory, J., in *Lansbury* v. *Riley* [1914] 3 K.B. 229—he thought that there was quite sufficient ground for the proposition that it was part of the preventive power, and, therefore, the preventive duty,

of a constable, in a case where there were such reasonable grounds of apprehension as those which the justices had found in the present case, to enter and remain at a public meeting.

AVORY and LAWRENCE, JJ., concurred. Appeal dismissed, with costs.

COUNSEL: *Sir Stafford Cripps*, K.C., and *Dingle Foot*, for the appellant; *R. Vaughan Williams*, K.C., and *D. L. Powell*, for the respondent.

SOLICITORS: *W. H. Thompson; Boxall and Boxall*, for *W. P. David & Snape*, Bridgend, Glamorgan.

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Fresh Wharf, Ltd., and Another *v.* Nicholson's Wharves, Ltd.

Porter, J. 7th June, 1935.

SHIP — ACCESS TO WHARF — OBSTRUCTION — VESSEL AT ADJACENT WHARF OVERLYING LIMITS LIABILITY OF WHARF OWNER—VESSEL OF REASONABLE DIMENSIONS.

The first plaintiffs in this action, Fresh Wharf, Ltd., were occupiers and lessees of London Bridge Wharf and Fresh Wharf, on the River Thames, and occupiers and owners of a jetty projecting from London Bridge Wharf. The second plaintiffs, Union Cold Storage Co., Ltd., were the owners of steamers trading to London. The defendants, Nicholson's Wharves, Ltd., occupied Nicholson's Wharf, adjoining Fresh Wharf on the east side, and a pontoon projecting from Nicholson's Wharf into the river. On the 26th November, 1934, a steamer belonging to the second plaintiffs, the "Gaelic Star," approached the first plaintiffs' jetty for the purpose of being discharged there by those plaintiffs for reward. The defendants at that time had a steamer, the "Albatross," lying at their pontoon and projecting over the line of the first plaintiffs' premises. The defendants refused to move the "Albatross" unless the first plaintiffs would give them a written indemnity against the risk and expenses incurred in doing so, including the cost of labour rendered idle by the removal. In the result the "Gaelic Star" was obliged to go to the Royal Albert Dock to discharge. The claim against the defendants was, *inter alia*, for a declaration as against the defendants that the first plaintiffs were entitled to access to and from Fresh Wharf for vessels coming in or leaving without obstruction by a vessel lying at the defendants' pontoon and projecting within the line of the boundary of Fresh Wharf. The defendants said that they had the right to berth such vessels at their pontoon even if they did project beyond the line of the first plaintiffs' premises. They counter-claimed, *inter alia*, for a declaration that the first plaintiffs were not entitled to berth at their jetty vessels of such dimensions as might obstruct the reasonable user of the defendants' pontoon and wharves.

PORTER, J., said that the question was whether the vessels coming to the first plaintiffs' wharf were of reasonable size. On the evidence he had come to the conclusion that the Star boats of the second plaintiffs could be brought to the first plaintiffs' wharf in safety if proper care was used. On the legal position he referred to *Attorney-General* v. *Conservators of the River Thames*, 1 H. & M. 1, and *Lyon* v. *Wardens of the Fishmongers' Company*, 1 App. Cas. 662, as showing the rights of owners of wharves to have access thereto and the public right of passing along the navigable river, and said that, *primâ facie*, the plaintiffs were entitled, in his view, to the relief claimed in the action. The defendants were not entitled to the remedies which they claimed; but the plaintiffs must not use vessels which would in fact be a nuisance. Judgment for the plaintiffs. Counter-claim dismissed.

COUNSEL: *Sir Robert Aske*, K.C., *Cyril Miller*, and *Richard Hurst*, for the plaintiffs; *van den Berg*, K.C., and *H. G. Willmer*, for the defendants.

SOLICITORS: *Botterell & Roche; Waltons & Co.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Siveyer *v.* Allison.

Greaves-Lord, J. 7th June, 1935.

BREACH OF PROMISE—MARRIED MAN—PROMISE NOT ENFORCEABLE—DAMAGES CLAIM DISMISSED—PUBLIC POLICY ACTION STATUTE-BARRED.

In this action a jury had returned a verdict in favour of the plaintiff, Miss Ethel Eva Siveyer, who claimed from Mr. Peter Relton Coulson Allison, damages for breach of promise of marriage. She also claimed damages for deceit. Her case was that Mr. Allison first promised to marry her in October, 1927, at which date she believed him to be a bachelor, and that after that promise was made she permitted Mr. Allison to seduce her. In December, 1927, he told her that he was married, but that the marriage had never been consummated, that he was in a position to obtain a decree of nullity, and that he would then marry her. Mr. Allison denied that he ever promised to marry Miss Siveyer, and denied the other allegations. After legal argument on the jury's answers to the questions left to them, his lordship gave judgment for Mr. Allison on the issues of breach of promise and deceit.

GREAVES-LORD, J., said that the defendant, in December, 1927, informed the plaintiff that he was in fact a married man, but that the conditions of his marriage were such that, owing to the physical condition of his wife, it had never been consummated. Shortly afterwards he told the plaintiff that, if she would continue the conditions of intimacy, he would obtain a decree of nullity and then marry her. In those circumstances, it was argued, in reliance on *Wild* v. *Harris*, 7 C.B. 999, that an action for breach of promise of marriage would lie, and that the representation in 1927 as to the right to a decree of nullity differentiated this case from *Wilson* v. *Carnley* [1908] 1 K.B. 729, where it had been held that a promise made by a married man to one who knew of the marriage was not enforceable. In the present case, even if *Wild* v. *Harris*, *supra*, applied, time would run under the Statute of Limitation from the time the plaintiff discovered that the defendant was married, and, therefore, any claim in respect of such promise was barred in December, 1933. The action was begun in 1934. Further, there was, in his (his lordship's) opinion, no corroborative evidence which expressly supported either promise. But, apart from that, he thought that the case of *Wild* v. *Harris*, *supra*, did not apply, but that *Wilson* v. *Carnley*, *supra*, did. There it had been held that a married man was incapable of legally contracting to marry, and the fact that an innocent person was persuaded into purporting to make such a contract did not give rise to any claim in contract. It had been said, however, that a claim could arise in tort for deceit. He thought that there was a good deal to be said for that proposition, but it could not avail the plaintiff in this case, as the claim, if it existed, was statute barred. For those reasons the claims for breach of promise of marriage and for deceit failed and must be dismissed, with costs.

COUNSEL: *J. Serrell Watts*, for the plaintiff; *F. W. Beney* and *Neil Lawson*, for the defendant.

SOLICITORS: *T. J. Robinson & Son; Kenneth Brown, Baker, Baker.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Townley Mill Co. (1919) Ltd. *v.* Oldham Assessment Committee.

Lord Hewart, C.J., Hawke and Lawrence, JJ. 19th and 20th June, 1935.

RATING—COTTON MILL CLOSED DOWN—MACHINERY AND PLANT LEFT IN POSITION—MILL RATED AS WAREHOUSE FOR STORING PROCESS MACHINERY—RATING AND VALUATION ACT, 1925 (15 & 16 Geo. 5, c. 90), s. 24 (1).

Appeal, upon a case stated under s. 31 (5) of the Rating and Valuation Act, 1925, against a decision of a Committee of Justices for Lancashire appointed by the Salford Quarter Sessions. The committee upheld a decision of the respondents

refusing to reduce the net annual and rateable values of the appellants' cotton mill to nil or to nominal values. The assessment appealed against was one of £359 made on 1st April, 1933. The following facts were proved or admitted :—

In May, 1931, the appellants, the millowners, stopped production in the mill, and in September, 1931, closed it down. From April, 1932, they were ready and willing to let it, and did let as a warehouse a portion of the basement containing no plant or machinery. As from October, 1932, and during the succeeding rating year, the mill was not restarted. On 1st April, 1933, the engineer was the only person still employed at the mill, his duties being, at a reduced salary, to take care of the plant and machinery, all of which was kept in position. The mill contained machinery within s. 24 (1) (*a*) of the Rating and Valuation Act, 1925, i.e., motive machinery deemed to be part of the hereditament, and machinery within s. 24 (1) (*b*) of the Act (i.e., process machinery) not so deemed. The committee found that there was no beneficial occupation of the premises as a cotton mill. For the purposes of their valuation, the respondents assumed that the mill had been cleared of plant and machinery, and based the valuation on its letting value, so cleared, as a warehouse. The committee held that the appellants were in beneficial occupation of the mill through using it as a warehouse to store the process plant and machinery, which, coming under s. 24 (1) (*b*), were not part of the mill itself.

Lord Hewart, C.J., said that the appeal must be allowed. The fundamental matter arose out of s. 24 (1) of the Act of 1925. By s. 24 (1) (*a*), machinery and plant which could be called motive, for example, those generating power, were to be deemed to be part of the hereditament for the purpose of making valuation lists. The sub-section then continued: "(*b*) Subject as aforesaid, no account shall be taken of the value of any plant or machinery in or on the hereditament." That included in (*a*) being eliminated, the only machinery left for inclusion in (*b*) was process or operative machinery, and of that the section said no account must be taken. The law before the Act of 1925 appeared in the judgment of Lord Halsbury in *Kirby* v. *Hunslet Assessment Committee* [1906] A.C. 43, at p. 47; the presence of machinery had formerly been treated as enhancing the rateable value of a hereditament. The Act of 1925 had been designed to relieve the rating of industrial hereditaments and the meaning of the legislature in s. 24 was quite clear, its effect being to get rid finally of the old doctrine of enhancement by reference to plant and machinery on the hereditament. The committee had based their decision on the presence in the mill of the very machinery of whose value, by s. 24 (1) (*b*), no account might be taken. Counsel for the respondents had argued that, although no account might be taken of the value of the machinery, account might be taken of the machinery itself. In his (his lordship's) opinion, legislation to that effect would have constituted a trap. The whole point of the early and typical cases of *Staley* v. *Castleton Overseers*, 5 B. & S. 505, and *Harter* v. *Salford Overseers*, 6 B. & S. 591, was that the hypothetical tenant had there been deemed to take into account the value of plant and machinery which were the very thing which s. 24 (1) (*b*) of the 1925 Act excluded from being taken into account. Although no regard could be had to the value of the process machinery here, yet the appellants were enjoying a very small degree of beneficial occupation. The court would accordingly reduce the figure in the assessment to the nominal one of £7, which the parties had agreed upon as convenient in the event of the appeal being allowed. Appeal allowed.

Hawke and Lawrence, JJ., agreed.

Counsel: *T. Eastham*, K.C., and *R. W. Leach*, for the appellants; *Walter Monckton*, K.C., and *F. Bancroft Turner*, for the respondents.

Solicitors: *John Taylor & Co.*, Blackburn; *Gibson and Weldon*, agents for *Megson & Nicholson*, Oldham.

[Reported by R. C. Calburn, Esq., Barrister-at-Law.]

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Obituary.

Mr. H. S. PRESTON, K.C.

M . Herbert Sansome Preston, LL.B., K.C., of Old Square, Lincoln's Inn, died at Beaconsfield on Monday, 24th June, in his sixty-ninth year. He was educated at Marlborough, and in 1898 was called to the Bar by Lincoln's Inn, of which he was later made a Bencher. He took silk in 1920, and was one of the King's Counsel who practised especially in the Chancery Division.

Mr. A. J. SPENCER.

Mr. Aubrey John Spencer, Barrister-at-Law, of Old Square, Lincoln's Inn, died on Wednesday, 19th June, at the age of eighty-two. Mr. Spencer was educated at Marlborough and Christ Church, Oxford, and was called to the Bar by Lincoln's Inn in 1879. He was an Assistant Commissioner to the Royal Commissions on Labour and on Agricultural Depression in 1892 and 1894. He specialised in Agricultural Law and wrote several books on the subject. He also edited a number of works and was editor of "The Law Journal Reports" for the Chancery Division for many years. Mr. Spencer was a Justice of the Peace for Buckinghamshire and Oxfordshire.

Mr. H. W. WICKHAM.

Mr. Herbert Wykeham Wickham, Barrister-at-Law, of Plowden Buildings, Temple, died at Twickenham on Saturday, 8th June. He was called to the Bar by the Middle Temple in 1890.

Mr. R. J. BENDALL.

Mr. Reginald James Bendall, solicitor, partner in the firm of Messrs. Bendall & Sons, of Newmarket and Soham, died in a nursing home at Bath on Monday, 17th June. Mr. Bendall, who was admitted a solicitor in 1901, had carried on in partnership with his brother, Mr. A. S. Bendall, the practice established by his father, the late Mr. Thomas Partridge Bendall.

Mr. L. C. EVANS.

Mr. Llewellyn Caradoc Evans, solicitor, of Manchester, died recently. Mr. Evans, who was admitted a solicitor in 1896, had been Town Clerk of Salford for 30 years until his retirement in 1929. He held the office of Clerk of the Peace for Salford.

Mr. F. HALL.

Alderman Frederic Hall, solicitor, senior partner in the firm of Messrs. Frederic Hall & Co., of Folkestone, died on Saturday, 22nd June, at the age of seventy-six. Mr. Hall, who was admitted a solicitor in 1880, had twice held the office of Mayor of Folkestone.

Mr. T. WARD.

Mr. Thomas Ward, solicitor, senior partner in the firm of Messrs. Ward & Dewhurst, of Preston, died on Monday, 17th June, at the age of seventy-three. Mr. Ward, who was admitted a solicitor in 1885, was a past president of the Preston Incorporated Law Society.

Parliamentary News.

Progress of Bills.

House of Lords.

Baildon Urban District Council Bill.
Commons Amendments agreed to. [25th June.
Bridgwater Corporation Bill.
Reported, with Amendments. [25th June.
Fylde Water Board Bill.
Reported, with Amendments. [25th June.
Government of India Bill.
Read Second Time. [20th June.
Housing Bill.
In Committee. [25th June.
Lanarkshire County Council Order Confirmation Bill.
Reported. [25th June.
Law Reform (Married Women and Tort-feasors) Bill.
Read Third Time. [20th June.
London and North Eastern Railway Bill.
Reported, without Amendment. [25th June.
London Midland and Scottish Railway Order Confirmation Bill.
Reported. [25th June.
London Passenger Transport Board Bill.
Read Second Time. [24th June.
Metropolitan Common Scheme (Palewell) Provisional Order Bill.
Read Second Time. [25th June.
Ministry of Health Provisional Order Confirmation (Croydon) Bill.
Reported, without Amendment. [25th June.
Ministry of Health Provisional Order Confirmation (Eastbourne) Bill.
Reported, without Amendment. [25th June.
Ministry of Health Provisional Order Confirmation (Harrogate) Bill.
Reported, without Amendment. [25th June.
Ministry of Health Provisional Order Confirmation (Huntingdon) Bill.
Reported, without Amendment. [25th June.
Ministry of Health Provisional Order Confirmation (Metropolis Water) Bill.
Reported, without Amendment. [25th June.
Ministry of Health Provisional Order Confirmation (Morley) Bill.
Reported, without Amendment. [25th June.
Ministry of Health Provisional Order Confirmation (Norwich) Bill.
Read Second Time. [20th June.
Ministry of Health Provisional Order Confirmation (Ottershaw Joint Hospital District) Bill.
Reported, with Amendments. [25th June.
Ministry of Health Provisional Order Confirmation (Oxford) Bill.
Read Second Time. [20th June.
Ministry of Health Provisional Order Confirmation (Pwllheli) Bill.
Read Second Time. [20th June.
Ministry of Health Provisional Order Confirmation (Watford) Bill.
Read Second Time. [20th June.
Ministry of Health Provisional Order (Fylde, Preston and Garstang Joint Smallpox Hospital District) Bill.
Read Second Time. [20th June.
Ministry of Health Provisional Order (Guildford) Bill.
Reported, without Amendment. [25th June.
Ministry of Health Provisional Order (Leigh Joint Hospital District) Bill.
Reported, with Amendments. [25th June.
Newcastle-upon-Tyne (General Powers) Bill.
Read Second Time. [24th June.
Poole Road Transport Bill.
Reported, with Amendments. [25th June.
Portsmouth Corporation (Trolley Vehicles) Provisional Order Bill.
Reported, without Amendment. [25th June.
Reading Corporation Bill.
Reported, with Amendments. [25th June.
St. Bartholomew's Hospital Bill.
Reported, with Amendments. 25th June.
Salmon and Freshwater Fisheries Bill.
Read Second Time. [25th June.
Sheffield Corporation Tramways Provisional Order Bill.
Reported, without Amendment. [25th June.
South Essex Waterworks Bill.
Reported, with Amendments. [25th June.
Southern Railway Bill.
Reported, with Amendments. [25th June.

Superannuation Bill.
Read Third Time. [25th June.
University of Durham Bill.
Reported, without Amendment. [24th June.
West Hampshire Water Bill.
Reported, with Amendments. [25th June.
Weymouth Waterworks Bill.
Reported, with Amendments. [25th June.

House of Commons.

Baildon Urban District Council Bill.
Read Third Time. [21st June.
Blackpool Improvement Bill.
Read Third Time. [20th June.
Bognor Gas and Electricity Bill.
Read Third Time. [20th June.
Boston Corporation Bill.
Read Second Time. [24th June.
Bournemouth Gas and Water Bill.
Read Second Time. [24th June.
Defence (Barracks) Bill.
Read Second Time. [26th June.
Diseases of Animals Bill.
Read Second Time. [26th June.
Finance Bill.
Reported. [24th June.
Hertfordshire County Council Bill.
Read Second Time. [26th June.
Lanarkshire County Council Order Confirmation Bill.
Read Third Time. [24th June.
London Building Act (Amendment) Bill.
Read Second Time. [26th June.
London Passenger Transport (Agreement) Bill.
Read First Time. [24th June.
Ministry of Health Provisional Order (Cuddington Joint Hospital District) Bill.
Read Second Time. [21st June.
Pier and Harbour Provisional Order (Scarborough) Bill.
Read Second Time. [26th June.
Restriction of Ribbon Development Bill.
Read Second Time. [25th June.
Superannuation Bill.
Lords' Amendments agreed to. [26th June.
Swansea Tramways Bill.
Read Second Time. [24th June.

Questions to Ministers.

MOTOR INSURANCE (THIRD-PARTY RISKS).

Mr. G. GRIFFITHS asked the President of the Board of Trade whether he is in a position to make any statement with regard to insurance companies who engage in insuring motorists against third-party risks.

THE PRESIDENT OF THE BOARD OF TRADE (Mr. Runciman): Amending legislation will be introduced at an early date in order to strengthen the powers of the Board of Trade with regard to insurance companies of doubtful stability.

Mr. PALING: Does that mean in the present Session?

Mr. RUNCIMAN: I hope so. [20th June.

HIGH COURT JUDGES.

Sir WILLIAM DAVISON asked the Attorney-General whether he is aware that, notwithstanding the recent appointment of additional judges, there are still a large number of civil cases awaiting trial in the High Court; whether steps will be taken to secure the appointment of further additional judges in addition to the filling of existing vacancies in order to dispose of the arrears which still continue; and whether the appointment of official shorthand writers in the High Court will be considered in order to save the time of the judges in making a longhand résumé of the proceedings in case of a possible appeal to a higher court.

Lieut.-Col. Sir A. LAMBERT WARD (Vice-Chamberlain of the Household): I have been asked to reply. Substantial progress has been made in the reduction of the numbers of civil cases awaiting trial in the High Court. The questions of the number of judges required for the efficient discharge of the work of the King's Bench Division and whether a shorthand note should be taken of cases tried in the High Court are under the consideration of the Commission presided over by Earl Peel.

Sir WILLIAM DAVISON: I am much obliged for that answer, but do the Government not recognise that the cheap and expeditious trial of cases is a matter of the first importance, and, seeing that judges earn more in their fees than in their salaries, is there any reason why there should be these hundreds of cases awaiting trial.

Sir A. LAMBERT WARD: I will communicate that suggestion of my hon. Friend. [24th June.

PROBATE, DIVORCE AND ADMIRALTY DIVISION (ARREARS).

Sir J. WITHERS asked the Attorney-General whether he is aware that when the Probate, Divorce and Admiralty Division of the High Court of Justice rose for the Whitsuntide vacation there were 577 undefended and 244 defended matrimonial cases included in the list for Easter sittings remaining undisposed of and that the arrears have increased substantially during the last 12 months, and what steps the Government proposed to take to remedy this.

THE ATTORNEY-GENERAL: At the beginning of the Whitsuntide Vacation there were 578 matrimonial causes in the undefended list awaiting trial. This list is being taken continuously, subject to the Admiralty cases, by all three judges of the Division, and it is expected that by Friday, 28th June, substantially the whole number will have been disposed of. This will leave about 420 undefended causes, entered since the beginning of the last sittings, to be dealt with during July, as compared with 488 causes at the corresponding date last year. It is not the case, therefore, that there has been any increase of arrears with regard to undefended causes. There has been a decrease of 68 cases. With regard to the causes in the defended list, it is impracticable to make a comparison with the position 12 months ago as regards the figures in this list without including the probate cases which form part of the same list. The defended causes included in the list for the Easter sittings and remaining undisposed of at the beginning of the Whitsuntide Vacation were 272. In addition, 137 causes have been entered since the beginning of the Easter sittings, making 409 in all, as compared with about 330 at the corresponding time last year. A comparison of the dates of entry shows that the causes to be dealt with in the current sittings have been entered approximately 15 weeks longer than the corresponding causes last year. Some of the delay in the disposal of this list has been occasioned by an abnormal loss of judicial time through illness. It is hoped that the position will become more normal before the end of the Michaelmas sittings. [21st June.

The Law Society.

ANNUAL REPORT.

The Annual Report of the Council to be presented to the General Meeting of the members on 5th July, states that there are twelve vacancies on the Council, ten of which are caused by retirement in rotation and two by the resignations of Mr. George Dudley Colclough and Mr. Henry Thomas Alexander Dashwood; particulars of the nominations appear in the announcement of the annual general meeting, published at p. 455 of our issue of the 22nd June.

After recording the deaths of the late Mr. Charles Edward Barry and the late Lord Riddell, and the Council's appreciation of the services rendered to the profession by these gentlemen, the Report mentions various other matters and events of the past year, some of the more outstanding of which are as follows:—

MEMBERSHIP OF THE SOCIETY.

The Society has now 10,684 members, of whom 4,293 practise in town and 6,391 in the country. The number of members who joined the Society during the past year is 464 as compared with 354 in the previous year. After allowing for deaths, resignations, and exclusions, the number of members shows an increase for the year of 106. The present membership is once again the highest in the Society's history, being approximately two-thirds of the total number of practising solicitors. The Council venture to urge all members to do what they can towards persuading non-members to join the Society. By this means it will be assisting in its work of protecting and advancing the interests of the Profession.

LEGAL EDUCATION.

The number of articled clerk students attending law schools (excluding the Universities of Oxford, Cambridge, and London) in the Autumn Term, 1934, was 1,191, a decrease of sixteen compared with the corresponding figures for the previous Autumn Term.

PROVINCIAL MEETING, 1934.

The fiftieth provincial meeting of the members of The Law Society was held at Newcastle-upon-Tyne on the 25th and 26th September, 1934, on the invitation of the Newcastle-upon-Tyne Incorporated Law Society.

The meeting throughout was favoured by ideal weather and was very largely attended.

Provincial Meeting, 1935.

On the invitation of the Hastings, St. Leonards and District Law Society, the fifty-first provincial meeting of The Law Society will take place on the 24th and 25th September next at Hastings.

Provincial Meetings, 1936 and 1938.

The Nottingham Incorporated Law Society have invited The Law Society to hold their annual provincial meeting at Nottingham in September 1936.

The Manchester Law Society, in view of the fact that the Society will holds its centenary in 1938, have invited The Law Society to hold their provincial meeting at Manchester in that year.

The Council have accepted both invitations.

Solicitors Act, 1933.

Rules under Section 1 (*a*) (*b*) *and* (*c*).

It was reported in the last annual report that rules rendering it necessary to keep a separate account of clients' money had been prepared under s. 1 (*a*) (*b*) and (*c*) of the Solicitors Act, 1933, and had been sent to the Master of the Rolls for his approval.

An interview took place subsequently with the Master of the Rolls, when the rules were discussed and certain criticisms made by his lordship. Some slight amendment in the draft ensued, and this having been approved by the Master of the Rolls, he, in the early part of June, 1934, approved the rules and they were published in the July, 1934, issue of "The Law Society's Gazette." A copy of them was sent to every practising solicitor, whether a member of The Law Society or not.

The rules came into force on the 1st January, 1935.

The Council desire to record the fact that, judging by the very few inquiries which have been made, or questions raised upon the rules, they must be regarded as having received the general approval of the profession.

Corporation Pretending to be a Solicitor.

Solicitors Act, 1934.

In the last annual report it was recorded that the Council having prosecuted, under s. 46 of the Solicitors Act, 1932, a debt-collecting organisation which had been formed into a limited company, the summons had been dismissed and that this dismissal had been confirmed on appeal to the Divisional Court. It was stated also that the Council considered that legislation should be introduced to prohibit corporations from acting as solicitors and had intimated their opinion to the Lord Chancellor and requested him to introduce legislation accordingly.

The Lord Chancellor did introduce a Bill, and it has passed the legislature as the Solicitors Act, 1934.

The Council expressed to the Lord Chancellor their thanks for his prompt and influential intervention.

Preparation of Legal Documents.

The following resolution was passed at the Special General Meeting held in January last :—

> "That the Council be invited to consider the promotion of legislation attaching (in suitable cases) the same penalties for the preparation, for reward, by unqualified persons of legal instruments not under seal, as attach under s. 47 of the Solicitors Act, 1932, to the preparation, for reward, by unqualified persons of instruments which are under seal."

The resolution has been referred for consideration by the Professional Purposes Committee, which has it still under consideration and will in due course report to the Council.

Departmental Committee on Legal Education.

In the last annual report reference was made to the fact that the Council had tendered evidence to the Committee appointed in 1932 by the Lord Chancellor to consider the organisation of legal education in England with a view to closer co-ordination between the universities and the professional bodies.

The Committee, which sat under the chairmanship of Lord Atkin, issued their report in July last. A summary of the report will be found included in the appendix at p. 94. Its main recommendation is that an Advisory Committee should be set up, consisting of three members nominated by the Council of Legal Education, three members nominated by the Council of The Law Society, six members nominated by the Society of Public Teachers of Law, one member to be nominated by the Standing Committee of Vice-Chancellors, and one member to be appointed by the Lord Chancellor, whose functions would include the consideration of the following matters : (1) as to granting or receiving exemptions from examinations ; (2) the co-ordination of teaching of particular (e.g. optional) subjects in the universities and professional schools ; (3) the general scope of teaching and examining by professional bodies and the University Law Schools ; and (4) the standard of the Preliminary Examination.

The Departmental Committee stated expressly that they did not suggest that the proposed committee should have any power to bind anyone, or that it should have any power to effect the complete independence of the bodies represented upon it.

In due course the Lord Chancellor invited the Council to nominate representatives upon the Advisory Committee and expressed personally the hope that they would accept his invitation. He mentioned with regard to the representatives on the Committee of Legal Education that representatives of the Bar, whom he had seen, had expressed a wish that each of the four Inns of Court should have a representative. The Lord Chancellor also expressed the view that any question of interfering with the principle laid down in s. 26 (3) of the Solicitors Act, 1932, that The Law Society is to conduct its examinations independently of any school of law and that no members of the teaching staff of any school of law shall take any part in any of the examinations would be outside the reference to the Advisory Committee.

The Report of Lord Atkin's Committee was considered by the Council and ultimately they adopted the recommendations of the Examination Committee set out in the report which appears in the Appendix, at p. 101.

Training of Articled Clerks.

There were set out very fully in the last annual report the effect of resolutions which had been passed by the Council regarding the training for and entrance to the profession, and as to the alterations which were regarded by the Council as desirable. The resolutions dealt with entrance into the profession, the duration and training of articled clerks, the time and term of attendance at a course of legal education, exemption from the intermediate examination, and the subjects for study for the intermediate and final examinations. It was stated that the resolutions had been referred back to a joint committee, consisting of members of the Examination and Legal Education Committees, to prepare legislation to give effect to such of the resolutions as involved the assistance of Parliament.

A Bill has been prepared and has been submitted to and approved by the Provincial Law Societies. A copy of it is included in the Appendix at p. 109.

Clause 1 will have the effect of prohibiting any solicitor, without special leave of the Council, from taking an articled clerk until after he has taken out five practising certificates punctually.

Clause 2 will empower the Council to ask for evidence of good character from those persons who desire to enter the profession.

Clause 3 is intended to give the Council power to consider the desirability of cancelling and to cancel articles of clerkship in any case in which difficulty or dissatisfaction has arisen.

Clause 4 will extend exemptions from the preliminary examination to those who have taken a degree in science and will have the effect of limiting the examinations accepted by the Universities as exempting from their matriculation examinations and thus from The Law Society's preliminary examination to those which are approved by the Council.

Clause 5 provides that certain examinations which at the present time exempt from the preliminary examination shall not confer that exemption in future unless the candidate has passed in Latin.

Clause 6 will increase the registrar's fee for registering articles from 5s. to £1.

Clause 7 is intended to secure to the Council notification of changes of address on the roll of solicitors.

Clause 8 reduces certain exemptions from one year's service to six months.

Clause 9 will have the effect of securing the attendance of articled clerks at law schools in the early period of their articles.

Clause 10 will exempt from attendance at a school of law barristers in England, Scotland and Northern Ireland, and solicitors in Scotland and Northern Ireland.

Clause 11 defines more clearly the examinations in law which exempt from attendance at a school of law.

Clause 12 gives the Council power to make regulations generally to give effect to the Bill.

Clause 13 extends the discretion of the Council to issue or withhold practising certificates to those who apply for a certificate for the first time and to those who apply for a certificate who are of unsound mind.

Clause 14 is intended to remove all doubt as to whether proceedings before the Disciplinary Committee are legal proceedings within the meaning of the Bankers Book Evidence Act, 1879.

Clause 15 meets a point as to the recording of Orders made against a solicitor by the High Court.

Clause 16 is included in the Bill in order to facilitate proceedings against unqualified persons who draw or prepare legal instruments contrary to s. 47 (1) of the Solicitors Act, 1932.

Intermediate Examination.

It will be remembered that in the last annual report there were set out a number of resolutions which had been passed by the Council regarding entrance to the profession, service under articles, attendance at schools of law, and the curricula for the intermediate and final examinations.

It was reported that the Council had resolved with regard to the intermediate examination that there should be no set books for the examination as in the past, but that the Council from time to time should issue lists of books recommended by them for study by intermediate students.

The Council have resolved with regard to the new intermediate curriculum, which will come into force as from the examinations held in June, 1937, that the subjects of the examination shall be as follows :—

(*a*) Public law, comprising—
(i) The law and custom of the Constitution.
(ii) The organisation of the Courts of Justice, with the outlines of their past history.
(*b*) Elements of the law of real property.
(*c*) The law of contract.
(*d*) The law of tort.
(*e*) Trust accounts and book-keeping.

They have recommended the following books for study, viz. :—

(i) Wade and Phillips on Constitutional Law ; Radcliffe on Real Property ; Sutton and Shannon on Contracts ; Underhill on Torts.
(ii) Part IV of Ridge's Constitutional Law, and vol. I (Parts I-IV) of Stephen's Commentaries ;

and have laid it down that the syllabus for the intermediate examination is to be worded in such a way as to make it clear that candidates will be expected, in answering questions, to apply the principles laid down in the books recommended, but will not be required to answer questions on subjects which are not included in those books.

Law Revision Committee.

In July last Lord Hanworth's Committee issued a third interim Report dealing with the doctrine of no contribution between tort-feasors, and in December last a fourth interim Report dealing with the liability of the husband for the torts of the wife, and the liability of a married woman in tort and contract.

Country Solicitor attending Trial in London.

In the last annual report reference was made to a resolution of the Associated Provincial Law Societies that the costs of attendance of a country solicitor at hearings of actions and appeals in London should be allowed as a matter of course. It turned out that, if there is any real ground for a country solicitor's attendance in his client's interests, attendance is allowed by the Taxing Master and then in most cases the allowance to the London agent is struck out, and that with regard to appeals the grounds for attendance by a country solicitor have to be stronger than for attendance on first instance.

In the circumstances the Council felt themselves unable to intervene beyond suggesting that the Taxing Master's discretion might possibly be exercised more liberally than it had been in the past.

Abolition of the Divisional Court.

In connection with a proposed resolution in the House of Commons that in view of the proposed abolition of the Divisional Court and of the consequent increase in the work of the Court of Appeal, it was essential that three new Lords Justices of Appeal should be appointed, the Council resolved that it would be unwise to commit themselves to the terms of the resolution until it has been possible by experience to ascertain the measure of increase of work which the abolition of the Divisional Court would involve.

Royal Commission on the King's Bench Division.

In December last a Royal Commission was appointed to inquire into the state of business in the King's Bench Division and to report whether, with a view to greater dispatch, any reforms should be adopted, and in particular what was the judicial strength required to deal with the business, whether there should be any further fusion or further sub-division of the Divisions of the Supreme Court, whether any alterations should be made in the circuits of the judges, whether any further measures should be taken for the devolution of work from the High Court to the county court, and whether a retiring age should be imposed upon High Court Judges in future.

The Council are considering the desirability of tendering evidence before the Royal Commission and for this purpose have appointed a Special Committee to consider the evidence to be given.

Mr. L. S. Holmes, of Liverpool, a member of the Council, has tendered evidence on behalf of the Associated Provincial Law Societies.

Counsel and Solicitors : Professional Etiquette.

The following resolution was passed at the Special General Meeting held on the 25th January, 1935 :—

"That the Council be urged to consider the serious prejudice to litigants and solicitors in cases where counsel, duly briefed for trial of action, is prevented from fulfilling his engagement owing to his appearance in another court and to make such representations as will lead to the appropriate remedy."

The foregoing resolution was referred to the Professional Purposes Committee for consideration and report to the Council, and they have it still under consideration.

Official Shorthand Writers in the Courts of Justice.

The President was informed personally by the Lord Chancellor of a proposal which had been urged upon him that there should be instituted in the Courts of Justice a system of official shorthand writers, and he requested the views of the Council with regard to the proposal. The Council accordingly took the matter into consideration and referred it to the Legal Procedure Committee. The report of that committee was brought up subsequently and adopted by the Council. A copy of it is included in the appendix at p. 119.

The Council are of opinion that, so long as the cost of taking a note and of its original transcription if that transcript is required by the court of trial or by the Court of Appeal is borne by the State, and that any copies required by the parties are available at copying rates, it is desirable that someone should be available in court to take a note and if necessary transcribe it. From the point of view of economy and efficiency their view is that if such facilities are to be made available they should be entrusted to the present firms of shorthand writers. It will be observed, however, that the Council record their opinion that a transcript of the note for the purpose of an appeal is not a satisfactory and complete substitute for the judge's note, and that although a transcribed shorthand note would enable the judge of first instance considerably to condense and shorten his own note, it is none the less desirable in the interest of litigants that the judge should continue to take a note, even in cases in which a shorthand note is taken and transcribed.

Privy Council Practice : Refresher Fees to Counsel.

A letter was received from members complaining that the Registrar of the Judicial Committee of the Privy Council in taxing costs makes inadequate allowances for refresher fees to counsel. The Council addressed a communication on the subject to the General Council of the Bar and ascertained that they agreed with this complaint.

Subsequently a joint letter from the General Council of the Bar and the Council of The Law Society was addressed to the Registrar of the Privy Council urging that the rate of refresher fees should be raised. The registrar replied that he was inclined to regard sympathetically the representations which had been made by the General Council of the Bar and the Council of The Law Society as to the inadequacy of refresher fees to counsel, but that he desired in the first instance to ascertain the views on the subject of the Taxing Department of the House of Lords, in view of the fact that in matters of practice the Privy Council endeavoured to keep the two final tribunals on similar lines. A joint letter accordingly was addressed to the Taxing Department of the House of Lords in the same terms as that which had been addressed to the Registrar of the Privy Council.

The matter is pending.

Lunacy Department.

Many complaints were received during the past year of congestion in the work of the Lunacy Department and consequent delays in attending to business. These complaints from time to time were passed on to the Lord Chancellor's Department. They culminated in a resolution passed by the Associated Provincial Law Societies that urgent representations be made with a view to the removal of the widespread dissatisfaction and inconvenience caused by the delay in disposal of business in the office of the Master in Lunacy. In July, 1934, the Council were informed that the Lord Chancellor had appointed a committee to consider and report whether the staff, organisation and accommodation of the management and administration department are apt and adequate for the performance of the proper functions of the department, and, if not, what alterations are necessary and desirable. The committee sat under the chairmanship of Sir John Fischer Williams, K.C., and included Mr. Henry Ball, a partner in the firm of Gregory, Rowcliffe & Co.

Evidence on behalf of the Society was tendered by Sir Roger Gregory and by Mr. Charles Douglas Medley. The report of the committee has not yet been published.

Custody of Wills.

A member of the Society raised a question as to the present practice with regard to the custody of wills. He urged that they should remain in the custody of the solicitor who had prepared them for the patient.

The Council ascertained that recently it has been customary to direct that the will is to be deposited at the receiver's bank for safe custody and to remain so deposited, subject to the directions of the Master, and that it is sealed up and is not open for inspection except by the Master. The Department stated that this practice enables the Master to have access to the will when some special occasion arises, as on an application to sell the patient's land or furniture or other property, or for the purpose of ascertaining whether any special bequest of the particular property has been made by the patient. It enables the Master also on the death of the patient to obtain immediate access to the will for the purpose of ascertaining any special directions as to burial. Rule 43 of the Management of Patients' Estates Rules, 1934, empowers the Master to deal with testamentary documents executed by a patient; and the practice upon proof of death is that directions are given to the bank to deliver the will to the executors, or as they may direct.

The Council considered the foregoing practice and came to the conclusion that it would be as easy for the Master to obtain access to the will on special occasions if it were in the custody of the family solicitor as it is when it is in the custody of the bank, and, indeed, that in cases of great urgency it would be easier to obtain information of the contents of a will if it were in the hands of the solicitor who prepared it. They considered also that if, as is the practice, the Master takes the precaution of keeping a copy of the will, there does not appear to be any necessity for immediate access to the original.

The Council arrived at the conclusion that where a patient has deposited his or her will with a solicitor there is no reason why the Master should remove the will from the custody of the patient's solicitor. The Council made representations to the Masters in Lunacy accordingly, and are glad to report that they have persuaded them to concur and that the practice will be altered accordingly.

District Registry Actions Removed to London.

A suggestion was received from a member practising in the provinces that something further should be done towards restricting the right of defendants to remove actions from District Registries to London. The Council replied that, as the Supreme Court Rules to some extent empower the court to restrict the right of removal, the matter is not one with regard to which they could intervene usefully.

Probate Practice: Double Probate.

A letter was received from members complaining with regard to cases in which power to prove a will is reserved that the Registry do not issue a certificate that a double probate has not been issued, nor do they call in the original probate if in fact a double probate is issued. The Council replied that while they approved the suggestion so far as the issue of the certificate was concerned, they did not concur in the proposal to recall the original grant. The member who had raised the question replied that so long as the present practice of swearing the amount of the estate for the purpose of the double grant as at the value of that portion of the estate which remains unadministered continues, the original grant ought perhaps not to be cancelled. He expressed the view, however, that the grant should be called in and bound up with the double grant, or an endorsement placed on the latter indicating the value of the estate as originally proved.

These suggestions were approved by the Council and a communication was addressed to the Senior Probate Registrar accordingly. The Senior Registrar stated subsequently that it is the practice of the Registry with regard to grants to some only of the executors to issue a certificate that search has been made in the Registry from the date of the grant to the date of the certificate and that no further or other grant appears to have been made during the period.

County Courts (Consolidation) Act.

It was reported in the last annual report that the County Courts (Amendment) Act, 1934, had been passed and that it contained a provision abolishing a solicitor's obligation to sign the County Court Roll before practising in the court and a further provision which would go some way towards reducing the circulation of objectionable debt collectors' notices. The Act was passed to some extent as a preliminary to the consolidation of the law relating to county courts and it was followed almost immediately by a County Courts (Consolidation) Bill.

The Lord Chancellor very kindly submitted this Bill for consideration by the Council, who ventured certain observations with regard to it. Subsequently the Consolidation Bill was passed. That particular section of the County Courts (Amendment) Act, now consolidated as s. 182 of the County Courts (Consolidation) Act, 1934, which prohibited the publication of debt collecting circulars calculated to induce the belief that they were of an official character, came into operation on the 1st January, 1935. Already the Council have been able to invoke the aid of the section.

County Court Practice.

Various points regarding county court practice have been considered by the Council during the past year.

In connection with a complaint as to delay in service of an ordinary summons by a county court bailiff, the Council ascertained that new rules are under consideration which, if adopted, will deal with complaints of delay by court officials by giving solicitors the option of serving ordinary county court summonses themselves.

It was suggested that the County Court Rules should be amended so as to include power to proceed in the county court by way of execution against stocks, shares and other securities and land and real estate, thus avoiding the present necessity of obtaining an Order to remove the county court judgment into the High Court. A communication on this subject was addressed to the Lord Chancellor.

The Liverpool Law Society addressed a letter to the secretary of the County Court Rules Committee urging that the principle of Ord. 22, r. 6, of the Rules of the Supreme Court should be extended to county court proceedings, and accordingly that in those proceedings no statement of the fact that money has been paid into Court should be inserted in pleadings and no communication of that fact be made to the judge or jury until all questions of liability and amount of debt or damages have been decided. The Council supported this request by the Liverpool Law Society.

Subsequently a letter was received from the Lord Chancellor's Secretary stating that the County Court Rules Committee would be invited to bring the practice relating to payment into the county court into conformity with that in the High Court under R.S.C., Ord. 22, r. 6.

A firm of London members complained that an allowance for mileage had been refused by a county court for the reason that the partner in their firm who had attended to the business resided considerably nearer to the county court than the office in which the firm practised. On this point the Lord Chancellor's Secretary stated that he would ask the County Court Sub-Committee to consider whether the wording of Item 74 of the scale of costs should be made to correspond with the wording of Item 15, and whether "residence" should be referred to in both items or neither.

It was pointed out to the Council that payments are made out of county courts by money order, and it was urged that thus unnecessary expense is incurred by litigants. This point also was mentioned to the Lord Chancellor's Secretary, and he replied that he would bring the matter to the attention of the Sub-Committee unless he found it was purely a matter which could be dealt with departmentally.

The Law Society's Conditions of Sale, 1934.

Section 46 of the Law of Property Act, 1925, empowered the Lord Chancellor to issue a form of contract and conditions of sale. The Lord Chancellor, however, decided that his powers under the section were limited to issuing a set of Conditions of Sale applicable to contracts by correspondence. The Council thereupon decided to prepare and issue a General Form of Conditions of Sale in the hope that, being issued under the name of The Law Society, the Conditions in time would come to be used generally by the profession and would result in conveyancing transactions under the new Acts being facilitated and expedited.

A General Form of Conditions was prepared accordingly and a further edition of it was issued in 1928. Both editions were prepared by Sir Benjamin Cherry.

The 1928 edition being exhausted and various suggestions having been made from time to time as to amending it, the Council decided to publish a new edition.

The drafting of the new edition was entrusted to the late Mr. T. R. Colquhoun Dill, who devoted a great deal of time and trouble to its preparation. The draft when complete was forwarded with an explanatory Memorandum to every Provincial Law Society and was published last year with a revised separate short form of Particulars and Special Conditions and form of Contract.

Registration of Title to Land.

In the last annual report reference was made to the fact that the Lord Chancellor had appointed a Committee

under the Chairmanship of Lord Tomlin to examine the procedure laid down in the Land Registration Act, 1925, ss. 120 and 122, for the purpose of ascertaining whether that procedure was apt for the purpose for which it was designed. It was stated at the time that one of the purposes for appointing the Committee was to enable the Lord Chancellor to consider if there was any county with regard to which particular circumstances rendered it appropriate that a compulsory Order should be made.

The evidence which the Council tendered before Lord Tomlin's Committee included an expression of opinion that, if it were shown to be in accordance with the wishes of the public and for their convenience that any additional compulsory Order should be made, then that such Order should be with regard to the County of Middlesex, as such an Order would render the Middlesex Deeds Registry unnecessary and would incorporate an area a considerable portion of which had already been developed for building purposes and registered voluntarily. The Council pointed out, however, that apparently there had been no expression of opinion in favour of extending compulsory land registration.

Lord Tomlin's Committee issued their report in January last. They recommended a slight amendment of the machinery under s. 122 of the Act. They expressed the opinion that the County of Middlesex would be the area best suited for inclusion in any Order which might be made, and they gave as their reasons for this view that it lies contiguous to the administrative County of London where compulsory registration is in force, and that the county is made up very largely of areas which are either built over or in course of development for building purposes, and that a larger proportion of land in the county has been registered already voluntarily at the Land Registry than is the case with any other county. The committee expressed the opinion that it is of supreme importance, and indeed, it is essential for the extension of compulsory registration to any new area, that the necessary survey of such area should be brought up to date on an appropriate scale. The committee expressed the opinion also that the phrase "State guaranteed" is not proper to be applied to describe the title of the registered proprietor under the present system of compulsory registration without reference being made to the effect of s. 70 of the Act in regard to overriding interests and, in the case of mines and minerals, to the effect of s. 83 (5) (*b*) of the Act.

Some little time after the issue of the report, the Lord Chancellor intimated to the Council that it was proposed without delay to set in motion the machinery prescribed by s. 122 of the Land Registration Act, 1925, for the purpose of making a Privy Council Order extending compulsory registration to the County of Middlesex. The Lord Chancellor inquired whether, if he were to give notice to the Middlesex County Council of the intention to make the Order referred to, and the Council, pursuant to s. 122 (1), were to give to The Law Society notice of the fact that notice had been given to them, the Council would ask for a public inquiry as to the desirability of extending compulsory registration to that particular county.

The Council, after consulting with the Associated Provincial Law Societies and satisfying themselves that any waiver by them of an inquiry regarding the suggested extension to Middlesex would not be regarded either as an expression of belief that such an extension was demanded by the public, or would prejudice the right of the Council to claim an inquiry on the occasion of any further extension, stated that, in view of the special circumstances applicable to Middlesex only, they would not ask for such an inquiry.

Land Registry Practice.

The Chief Land Registrar, on being approached with the object of securing an extension of the effect of the certificate of search issued under the Land Charges Act, stated that he would be willing that such certificates should cover local land charges affecting property within a compulsory area, but that he could not find himself able to agree to any such extension with regard to property outside the compulsory areas in view particularly of the inadequacy of the plans available.

Conveyances in Connection with Building Development.

Stamp Duty.

As the result of the decision in *McInnes* v. *The Commissioners of Inland Revenue*, decided by the Court of Session of Scotland on the 29th May, 1934, the Commissioners of Inland Revenue have been requesting those persons being solicitors, or those personally interested, submitting for stamping conveyances, which may appear to contemplate building operations, to answer certain questions to enable the Commissioners to arrive at the correct rate of duty chargeable.

A certain measure of delay has resulted in obtaining the decision of the Commissioners as to the stamp duty chargeable, and in connection with the matter generally the Council have received a considerable number of communications from members. They have had several interviews with the Controller of Stamps and were informed that the Commissioners were proposing to submit a case to the High Court in England.

Such a case was submitted to and heard by Mr. Justice Finlay on the 11th April, 1935, and the Council hope that as a result the Commissioners will find themselves able to lay down the practice in such a manner as to remove all doubts and avoid the delays referred to.

Insurance Companies Preparing Wills.

The Council received a letter from a member stating that an insurance company had informed one of the agents of the company that they had instituted a trustee department and were prepared, free of charge, to draw wills appointing the insurance company sole trustee and that for every "client" the agent might introduce who made such a will the company would pay him £1.

The Council having made enquiries are satisfied that banks and insurance companies generally do not favour such a practice.

Poor Persons Procedure.

The annual report of the London and Provincial Committees of their work during 1934 is included in the appendix to the Society's report.

Proceedings under the Solicitors Act, 1932.

The forty-sixth annual report of the Disciplinary Committee constituted under the Solicitors Act, 1932, which is also to be found in the appendix, shows that, on the application of the Society, the names of fifteen solicitors, who had previously been convicted on indictment and sentenced to terms of imprisonment, were struck off the Roll by order of the Committee; that on the application of private individuals and of the Society the names of nine solicitors were struck off the Roll and three other solicitors were suspended from practising and ordered to pay costs; that in one case the Committee found that the conduct of the solicitor was deserving of censure and he was ordered to pay the costs; that in three cases the Committee found that whilst acquitting the solicitor of professional misconduct the applications were justified and in each case the solicitor was ordered to pay the costs; that in three cases the Committee, whilst acquitting the solicitors of professional misconduct, made no order as to costs; and that in one case the Committee dismissed the application and ordered the complainant to pay the solicitor's costs. Four unqualified persons and three uncertificated solicitors have been convicted under s. 46 of the Solicitors Act, 1932, for wilfully pretending to be qualified to act as a solicitor. In one case the summons was withdrawn on payment of costs, and one further summons was dismissed under the Probation of Offenders Act, 1907, on payment of costs. One limited liability company and its manager were prosecuted to conviction under s. 1 of the Solicitors Act, 1934, for wilfully pretending to be qualified to act as solicitors. Three convictions were obtained for offences under s. 47 of the Solicitors Act, 1932 (preparing legal instruments for profit), and in one other case the summons was dismissed under the Probation of Offenders Act, 1907, on payment of costs. Sixteen applications under s. 52 of the Solicitors Act, 1932 (for leave to employ solicitors struck off the Roll or suspended from practice), were considered by the Council, who refused four and granted permission in twelve cases for periods of six or twelve months or for a specific purpose. The Council considered fifty-six applications by articled clerks under s. 21 of the Solicitors Act, 1932, for permission to hold office during articles. The Council considered seventy-two applications for the issue of a practising certificate under s. 38 of the Solicitors Act, 1932, and refused eight. On appeal from their decision in two cases the Master of the Rolls made an order for the issue of the certificate upon conditions. As indicating the magnitude of the work undertaken by the Professional Purposes Committee it is convenient to mention here that that Committee dealt, during the period under review, with upwards of 1,500 applications affecting the practice and etiquette of the Profession.

Mr. W. L. Sanders and Mr. C. M. Melville, solicitors and members of the firm of Messrs. Wontner & Sons, of 40, Bedford-row, W.C., have been appointed to the staff of the Legal Department formed by the Commissioner of Police at New Scotland Yard. The remaining partner, Mr. Edward B. Knight, has been joined in partnership by Mr. Lancelot E. Barker, and the ordinary private business of the firm will be carried on under the style of "Wontner & Sons" at the same address as heretofore.

Rules and Orders.

THE LONG VACATION (1935) ORDER, 1935.

At the Court at Buckingham Palace, the 6th day of June, 1935.
Present :
The King's Most Excellent Majesty in Council.

Whereas by section 53 of the Supreme Court of Judicature (Consolidation) Act, 1925,* it is enacted that His Majesty may from time to time by Order in Council on a report or recommendation made, with the concurrence of the Lord Chancellor, by the Council of Judges of the Supreme Court assembled in pursuance of the provisions of Part X of that Act make, revoke or modify Orders regulating the Vacations to be observed by the High Court and the Court of Appeal and in the offices of the said Courts respectively :

And whereas a Council of Judges of the Supreme Court assembled in pursuance of the said provisions at the House of Lords on Monday, the 20th day of May, 1935, recommended that the Long Vacation for the year 1935 should be shortened so that the Michaelmas Sittings of 1935 should commence on Monday, the 7th day of October :

And whereas the Lord Chancellor concurs in that recommendation :

Now, therefore, His Majesty, by and with the advice of His Privy Council, is pleased to order, and it is hereby ordered, as follows :—

1. The Michaelmas Sittings of the Court of Appeal and of the High Court of Justice shall in the year 1935 commence on the 7th day of October, and the Long Vacation of the several Courts and offices of the Supreme Court shall for all purposes terminate on Sunday, the sixth day of October of the same year.

2. This Order may be cited as the Long Vacation (1935) Order, 1935.

M. P. A. Hankey.

* 15 & 16 Geo. 5, c. 49.

Societies.

The West Wales Law Society.

The annual meeting of the West Wales Law Society was held at the Queen's Hotel, Aberystwyth, on Wednesday, 12th June, when important matters affecting the profession were discussed and dealt with.

After the annual meeting a luncheon was held at the Queen's Hotel, where there was a large and representative gathering. The chief guest was The Hon. Mr. Justice MacKinnon. The following guests were also present, namely, Lord Aberdour (the Judge's Marshal), Mr. Trevor Hunter, K.C., Mr. Gwilym Jones (President), Mr. F. S. Simons (Ex-President), and Mr. W. J. Canton (Secretary), Merthyr Tydfil and Aberdare Law Society ; Mr. H. G. T. Christians (Secretary), Swansea and Neath Law Society ; Mr. A. C. R. David (Secretary), Mid-Wales Law Society. "The King" was proposed by Mr. F. H. Jessop (President of the West Wales Law Society and also a member of the Council of The Law Society). "The West Wales Law Society" was proposed by Mr. H. G. T. Christians, and responded to by Mr. Martin R. Richards (the President-elect of the West Wales Law Society). "The Visitors" was proposed by Mr. H. Llwyd H. Williams, of Fishguard, and responded to by Mr. Gwilym Jones. The function was a great success and upwards of sixty solicitors from Cardiganshire, Carmarthenshire and Pembrokeshire were present.

The Union Society of London.

JOINT DEBATE WITH THE HARDWICKE SOCIETY.

A meeting of the Society was held at the Middle Temple Common Room, on Wednesday, the 19th June, at 8.15 p.m., the President (Mr. Alun Llewellyn) being in the chair. Mr. Hurle Hobbs proposed the motion : "That this House has continued confidence in the National Government." Mr. L. A. Abraham (Hardwicke Society) opposed, and Mr. Mayres (Hon. Treasurer, Hardwicke Society), Mr. Ungoed Thomas (Hardwicke Society), Mr. Orme, Mr. Brundrit, Mr. Mountain and Mr. Sandilands also spoke. Mr. Hurle Hobbs replied. Upon division the motion was lost by six votes.

The Incorporated Society of Auctioneers and Landed Property Agents has now issued its 1935 list of members, which also incorporates the code of conduct and scale of charges. The membership of the society is about 2,700.

Legal Notes and News.

Honours and Appointments.

The King has been pleased to approve the appointment of Mr. WILFRID HUBERT POYER LEWIS, O.B.E., as one of the Justices of the High Court of Justice, King's Bench Division. Mr. Wilfrid Lewis, who has for several years been common law junior counsel to the Treasury, was called to the Bar by the Inner Temple in 1908, and was made a Bencher in 1929.

The King has been pleased to approve the appointment of Mr. HAROLD JAMES COLLISTER, I.C.S., and of Mr. JAMES JOSEPH WHITTLESEA ALLSOP, I.C.S., as Puisne Judges of the High Court of Judicature at Allahabad, with effect from 20th July in the vacancies created by the death of Mr. Justice Kendall and the resignation, for personal reasons, of Mr. Justice B. S. Kisch.

Surgeon-Captain A. DOUGLAS COWBURN, R.N.V.R., the South London coroner, has been elected president of the Coroners Society of England and Wales. The senior vice-president is to be Mr. J. A. K. FERNS, coroner for East Cheshire, and the junior vice-president Mr. P. B. SKEELS, coroner for Essex (Metropolitan). Sir WALTER SCHRODER has again been elected honorary secretary.

Mr. HENRY ARTHUR HOLLOND, of Trinity College, Cambridge, has been elected an Honorary Bencher of the Honourable Society of Lincoln's Inn. Mr. Hollond was called to the Bar by the Inner Temple in 1911.

Mr. J. R. DAWBARN, solicitor, Wisbech, Isle of Ely, has been appointed Clerk to the Terrington Justices. Mr. Dawbarn was admitted a solicitor in 1922.

Mr. COLIN CAMPBELL, Town Clerk of Burnley, has been recommended for appointment as Town Clerk of Plymouth, in succession to Mr. R. J. Fittall, who is retiring in October. Mr. Campbell, who was admitted a solicitor in 1919, has been Town Clerk of the County Borough of Burnley for twelve years, and Clerk of the Peace for seven years.

Professional Announcements.

(2s. per line.)

DR. JUR. WILHELM FINK.

DR. JUR. WILHELM FINK, Advocate, qualified to advise in Austrian, Czechoslovak, Polish and International legal matters, announces that he has transferred to 1, Finsbury-square, London, E.C.2, his practice carried on for many years past in Hamburg and Paris.

SOLICITORS & GENERAL MORTGAGE & ESTATE AGENTS ASSOCIATION.—A link between Borrowers and Lenders, Vendors and Purchasers.—Apply, The Secretary, Reg. Office : 12, Craven Park, London, N.W.10.

Wills and Bequests.

Mr. Cornelius Tipper, solicitor, of Deptford and Catford, left £12,295, with net personalty £11,205.

Mr. William Henry Buddell, solicitor's clerk, of Forest Hill, S.E., left £19,275, with net personalty £18,239.

Mr. David Mainland Dodd, solicitor, of Newcastle-on-Tyne, left £14,292, with net personalty £9,517.

Mr. John Spyvee Cooper, retired solicitor, of Windermere, left £15,782, with net personalty £11,153.

Mr. Edward Percy Debenham, solicitor, of St. Albans, left £22,514, with net personalty £12,358.

Mr. George Newby, solicitor, of Norton-on-Tees, left £19,824, with net personalty £17,878.

Mr. Joseph Gordon Davies, solicitor, of Blanbadarn, Cardigan, left £22,767, with net personalty £15,660.

Mr. Arthur Croxall Whitehead, solicitor, of Pall Mall and of Piccadilly, head of the firm of Burch & Co., solicitors, left estate of the gross value of £37,496, with net personalty £37,243. He left £100 to the Children's Sanatorium for the Treatment of Phthisis, Holt, Norfolk.

Notes.

The Revenue Paper will be taken by Mr. Justice Finlay on Monday, the 15th July and following days.

The Mid-Summer Quarter Sessions for the Borough of Stamford will be held on Wednesday, 24th July, at 11.30 in the forenoon at the Town Hall.

The Council of the Royal Empire Society have re-elected Sir Archibald Weigall their chairman for the ensuing year, and General Sir Alexander Godley and Admiral Sir William Goodenough have been elected deputy chairmen.

Harrogate Town Council have placed on record their appreciation of the services of Mr. J. Turner Taylor, Town Clerk, who is retiring after over forty years' service with the Corporation, during thirty-eight of which he has been Town Clerk. Mr. Taylor was admitted a solicitor in 1894.

In the examination results of the Chartered Insurance Institute which have just been issued, Mr. Frederick O. H. Rowlands, of the London and Lancashire Insurance Company, is shown to have been the winner of the Rutter Gold Medal for the most successful paper in the Fellowship Examination.

Magna Carta day was commemorated at Egham, Surrey, last Sunday evening at a service in Egham Parish Church, which has been called "the Church of the Charter." Lord Hanworth, the Master of the Rolls, read four of the main clauses of Magna Carta, and an address was given by Canon Crum of Canterbury Cathedral.

"The speed limit law is rapidly becoming a dead letter," said the Mayor of Reading (Dr. Holden) during the hearing of summonses recently. "Every day," he added, "I see cars exceeding the limit, many of them travelling at fifty miles an hour. Energetic action should be taken." Superintendent Osborne replied: "It will be taken."

The results of the Incorporated Accountants' Examinations, held on 29th and 30th April, and 1st and 2nd May, 1935, by the Society of Incorporated Accountants and Auditors, in London, Manchester, Cardiff, Leeds, Glasgow, Dublin and Belfast, have recently been issued; 1,033 candidates sat for the examinations, and of these 516 were successful; fourteen candidates were awarded honours.

NOTICE TO CONTRIBUTORS.

The Editor will be pleased to consider for publication contributions and correspondence from any professional source upon matters of legal interest.

All contributions (including correspondence) should be typewritten and on one side of the paper only, and must be accompanied by the name and address of the contributor.

The Editor is unable to accept any responsibility for the safe custody of contributions submitted to him, and copies should therefore be retained. The Editor will, however, endeavour in special circumstances to return unsuitable contributions within a reasonable period, if a request to this effect and a stamped addressed envelope are enclosed with the manuscript.

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Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

DATE.		EMERGENCY ROTA.	APPEAL COURT No. 1.	GROUP I. MR. JUSTICE EVE. Witness Part I.	MR. JUSTICE BENNETT. Witness Part II.
		Mr.	Mr.	Mr.	Mr.
July	1	Jones	More	*Ritchie	More
,,	2	Ritchie	Hicks Beach	*Andrews	*Ritchie
,,	3	Blaker	Andrews	*More	Andrews
,,	4	More	Jones	Ritchie	*More
,,	5	Hicks Beach	Ritchie	*Andrews	Ritchie
,,	6	Andrews	Blaker	More	Andrews

DATE.		GROUP I. MR. JUSTICE CROSSMAN. Non-Witness	MR. JUSTICE CLAUSON Non-Witness	GROUP II. MR. JUSTICE LUXMOORE Witness Part II.	MR. JUSTICE FARWELL. Witness Part I.
		Mr.	Mr.	Mr.	Mr.
July	1	Andrews	Blaker	*Jones	*Hicks Beach
,,	2	More	Jones	Hicks Beach	*Blaker
,,	3	Ritchie	Hicks Beach	*Blaker	*Jones
,,	4	Andrews	Blaker	Jones	*Hicks Beach
,,	5	More	Jones	*Hicks Beach	Blaker
,,	6	Ritchie	Hicks Beach	Blaker	Jones

*The Registrar will be in Chambers on these days and also on the days when the Court is not sitting.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement, Thursday, 11th July, 1935.

	Div. Months.	Middle Price 26 June 1935.	Flat Interest Yield. £ s. d.	‡Approximate Yield with redemption £ s. d.
ENGLISH GOVERNMENT SECURITIES				
Consols 4% 1957 or after	FA	114½xd	3 9 10	3 1 7
Consols 2½%	JAJO	85	2 18 10	—
War Loan 3½% 1952 or after	JD	106	3 6 0	3 0 11
Funding 4% Loan 1960-90	MN	117⅝	3 7 11	2 19 7
Funding 3% Loan 1959-69	AO	103½	2 18 0	2 16 0
Victory 4% Loan Av. life 25 years	MS	116	3 9 0	3 1 4
Conversion 5% Loan 1944-64	MN	122	4 2 0	2 1 6
Conversion 4½% Loan 1940-44	JJ	112	4 0 4	2 2 10
Conversion 3½% Loan 1961 or after	AO	108	3 4 10	3 0 11
Conversion 3% Loan 1948-53	MS	105	2 17 2	2 10 10
Conversion 2½% Loan 1944-49	AO	102	2 9 0	2 5 0
Local Loans 3% Stock 1912 or after	JAJO	96	3 2 6	—
Bank Stock	AO	367½	3 5 4	—
Guaranteed 2½% Stock (Irish Land Act) 1933 or after	JJ	88	3 2 6	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	96	3 2 6	—
India 4½% 1950-55	MN	113	3 19 8	—
India 3½% 1931 or after	JAJO	97½	3 11 10	—
India 3% 1948 or after	JAJO	85½	3 10 2	—
Sudan 4½% 1939-73 Av. life 27 years	FA	120	3 15 0	3 7 3
Sudan 4% 1974 Red. in part after 1950	MN	114	3 10 2	2 16 9
Tanganyika 4% Guaranteed 1951-71	FA	115	3 9 7	2 16 5
L.P.T.B. 4½% "T.F.A." Stock 1942-72	JJ	111	4 1 1	2 12 6
COLONIAL SECURITIES				
Australia (Commonw'th) 4% 1955-70	JJ	107	3 14 9	3 10 2
*Australia (C'mm'nw'th) 3¾% 1948-53	JD	102	3 13 6	3 11 1
Canada 4% 1953-58	MS	112	3 11 5	3 2 4
*Natal 3% 1929-49	JJ	100	3 0 0	3 0 0
*New South Wales 3½% 1930-50	JJ	100	3 10 0	3 10 0
*New Zealand 3% 1945	AO	101	2 19 5	2 17 9
†Nigeria 4% 1963	AO	115	3 9 7	3 3 7
*Queensland 3½% 1950-70	JJ	100	3 10 0	3 10 0
South Africa 3½% 1953-73	JD	107	3 5 5	2 19 10
*Victoria 3½% 1929-49	AO	100	3 10 0	3 10 0
CORPORATION STOCKS				
Birmingham 3% 1947 or after	JJ	96	3 2 6	—
*Croydon 3% 1940-60	AO	100	3 0 0	3 0 0
Essex County 3½% 1952-72	JD	106	3 6 0	3 1 3
Leeds 3% 1927 or after	JJ	95	3 3 2	—
Liverpool 3½% Redeemable by agreement with holders or by purchase	JAJO	107	3 5 5	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	84	2 19 6	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	96	3 2 6	—
Manchester 3% 1941 or after	FA	97	3 1 10	—
*Metropolitan Consd. 2½% 1920-49	MJSD	101	2 9 6	—
Metropolitan Water Board 3% "A" 1963-2003	AO	100	3 0 0	3 0 0
Do. do. 3% "B" 1934-2003	MS	99½	3 0 4	3 0 4
Do. do. 3% "E" 1953-73	JJ	101	2 19 5	2 18 7
Middlesex County Council 4% 1952-72	MN	114	3 10 2	2 18 10
† Do. do. 4½% 1950-70	MN	116	3 17 7	3 2 11
Nottingham 3% Irredeemable	MN	96	3 2 6	—
Sheffield Corp. 3½% 1968	JJ	106½	3 5 9	3 3 7
ENGLISH RAILWAY DEBENTURE AND PREFERENCE STOCKS				
Gt. Western Rly. 4% Debenture	JJ	115xd	3 9 7	—
Gt. Western Rly. 4½% Debenture	JJ	126½xd	3 11 2	—
Gt. Western Rly. 5% Debenture	JJ	136½xd	3 13 3	—
Gt. Western Rly. 5% Rent Charge	FA	134½xd	3 14 4	—
Gt. Western Rly. 5% Cons. Guaranteed	MA	133½	3 14 11	—
Gt. Western Rly. 5% Preference	MA	120½	4 3 0	—
Southern Rly. 4% Debenture	JJ	113	3 10 10	—
Southern Rly. 4% Red. Deb. 1962-67	JJ	111½	3 11 9	3 7 0
Southern Rly. 5% Guaranteed	MA	132½	3 15 6	—
Southern Rly. 5% Preference	MA	120½	4 3 0	—

*Not available to Trustees over par. †Not available to Trustees over 115.
‡In the case of Stocks at a premium, the yield with redemption has been calculated as at the earliest date; in the case of other Stocks, as at the latest date.

SALE NEXT TUESDAY.

By Order of the Trustees of the Estate of Mrs. Rachel Hooker, deceased.—In the Estate of J. W. Vandy; and by Order of the Mortgagees and Another.

IMPORTANT PROPERTY SALE

At THE LONDON AUCTION MART, 155, QUEEN VICTORIA-STREET, E.C.4, on TUESDAY, 2nd JULY, 1935, at 2.30 p.m. sharp.

INVESTMENTS.

FREEHOLD.	Producing per ann. £ s. d.
22, Sixth-avenue, Manor Park, E.12.. ..	45 1 4
75, Third-avenue, Manor Park, E.12 ..	41 16 4
84, Third-avenue, Manor Park, E.12 ..	42 9 4
20, Warwick-road, Manor Park, E.12 ..	40 16 10
155, 157 & 159, St. Stephens-road, Old Ford, E.3	71 10 0
70, 72 & 78, Libra-road, Old Ford, E.3 ..	179 10 2
1-20, Vandys-buildings, Libra-road, Old Ford, E.3	177 0 4
LEASEHOLD.	
25, Fifth-avenue, Manor Park, E.12 ..	40 6 0
150, Union-road, Leytonstone	75 0 0
Total Gross Rentals per annum ..	£713 10 4

WITH VACANT POSSESSION.

118, Woodlands-avenue, Wanstead, E.11. Long Leasehold Residence of distinction.

Particulars and Conditions of Sale from the Auctioneers,

R. CHEKE & CO.,

749, Romford-road, Manor Park, E.12. Phone, Ilford 0034 and 1620.
45, High-street, Plaistow, E.13. Phone, Albert Dock 1135.
11, High-street, Wanstead, E.11. Phone, Wanstead 0759.
252, High-road, Leyton, E.10. Phone, Leytonstone 1413.
Or Branches.

By Order of Executors and others.

At the LONDON AUCTION MART, 155, QUEEN VICTORIA-STREET, E.C., on THURSDAY, 11th JULY, at 2.30 o'clock.

DORKING, SURREY.

(In conjunction with Messrs. CROW)

STIMSON & SONS

Will SELL by AUCTION

THE FREEHOLD HOUSE and SHOP, 3, HIGH-STREET, occupying an excellent position. In the occupation of Pearks Dairies, Ltd. Let upon repairing Lease at the low rent of £100 per annum, until 25th March, 1940, when a considerable increase of rent may be anticipated.

Messrs. Rutherford & Son, Solicitors, 19, Great Winchester-street, E.C.2.

Messrs. Crow, Auctioneers, 76, South-street, Dorking.

FOREST HILL.

FOUR FREEHOLD HOUSES, 20, 21, 22 and 23, CHAPLIN-STREET, producing £96 4s. per annum, and FREEHOLD GROUND RENTS of £95 10s. per annum, secured upon 1 to 19, 24 to 30, Chaplin-street, with Reversion in 1960 to estimated gross rack rents of £685 per annum.

Solicitors: Messrs. E. G. & J. W. Chester, 86, Newington Butts, S.E.11.

Particulars of STIMSON & SONS, Auctioneers, 25, Ironmonger-lane, E.C.2, and 12 New Kent-Road, S.E.1.

By Order of Trustees, Executors, Islington Borough Council, &c.

DRIVERS & NORRIS, F.A.I.

Will SELL, at the LONDON AUCTION MART, on 4th JULY,

FREEHOLD GROUND RENTS

secured upon
40 NON-BASEMENT BAY-WINDOWED HOUSES AT LOWER CLAPTON,
PRODUCING £278 10s. PER ANNUM,
with Reversions in about 43 years.
Also

FREEHOLD & LEASEHOLD SHOP AND HOUSE INVESTMENTS

situate at
HOLLOWAY, CANONBURY, UPPER HOLLOWAY, STAMFORD HILL AND CHINGFORD,
Producing an actual and estimated income of PER £1,347 13s. 8d. ANNUM.
Also in conjunction with R. W. J. GIBBON, F.S.I.,

FREEHOLD GROUND RENTS

Secured upon Seven Shops in Holloway-road and leased to Westminster Bank, Harper Pianos, &c., and Houses at WIMBLEDON and NOTTING HILL,
producing
PER £348 17s. 0d. ANNUM.
with Reversion in 19-56 years.

For Full Particulars and Conditions of Sale apply 407, Holloway-road, N.7. 'Phones North 2265 (4 lines).

Telephone: Holborn 8741.

ALFRED SAVILL & SONS,

51A, LINCOLN'S INN FIELDS, W.C.2.

By Order of the Trustees.

ESSEX:
NORTH SHOEBURY.

Within the County Borough of Southend.
THE VALUABLE
FREEHOLD PROPERTIES,
NORTH SHOEBURY HOUSE
and
NORTH SHOEBURY HALL FARMS
(With Farmhouses, Buildings and Cottages),
containing
EXTENSIVE BEDS OF BRICK EARTH
and
OVER 4,800 FEET
Of PROSPECTIVE BUILDING FRONTAGES,
together with several
WELL-BUILT COTTAGES,
in all
ABOUT 221 ACRES

Of Rich Agricultural and Market Garden Land,
WITH POSSESSION ON COMPLETION.
Will be offered for SALE by AUCTION (in Lots), by

ALFRED SAVILL & SONS

At the HOTEL VICTORIA, SOUTHEND-ON-SEA, on WEDNESDAY, 10th JULY, 1935, at 3 p.m.

Solicitors: Messrs. Baker & Nairne, 3, Salters Hall court, Cannon-street, E.C.4.

Auctioneers' Head Offices: 51A, Lincoln's Inn-fields, London, W.C.2. Telephone, Holborn 8741.

CHIGWELL, ESSEX.

A few minutes' walk from Chigwell and Grange Hill Stations, on the London and North Eastern Railway (proposed to be electrified), and about 10 miles from the City.

THE VALUABLE
FREEHOLD BUILDING ESTATE
known as
GRANGE FARM, CHIGWELL,

together with the well-built
DETACHED COUNTRY RESIDENCE, MILLBROOK (with possession), containing 4 reception rooms, 9 bed and dressing rooms, 3 bathrooms, garage, &c., and with a MOST DELIGHTFUL GARDEN
and
THE MANOR HALL, MANOR-ROAD,
the whole extending to
OVER 42 ACRES,

with Gas, Water, Electric Light and Main Drainage available.

Will be offered for SALE by AUCTION (in Lots), by

ALFRED SAVILL & SONS

At the LONDON AUCTION MART, 155, QUEEN VICTORIA-STREET, E.C.4, on MONDAY, 22nd JULY, 1935, at 2.30 p.m. (unless previously sold by private treaty).

Particulars, Plans and Conditions of Sale may be obtained from the Solicitors, Messrs. Mills, Curry & Gaskell, Balfour House, 119-125, Finsbury-Pavement, E.C.2; and of the Auctioneers, at their Head Office, 51A, Lincoln's Inn-fields, W.C.2. Telephone, Holborn 8741.

By Order of Trustees.

REGENT'S PARK,

Within a few yards of Primrose Hill, the Park, the Zoological Gardens, and within close proximity to the Underground Railway and services of motor buses,
THE TWO DESIRABLE
FREEHOLD RESIDENCES,

known as Nos. 34 and 40, CHALCOT-CRESCENT, N.W.1, each comprising eight good rooms and a garden in rear. Part of No. 34 is let, and the premises are capable of producing an estimated gross rental of £136 10s. per annum. No. 40 is fully let, and produces a gross income of £103 2s. 8d. a year.

Vacant Possession of No. 34 can be obtained if desired. The Properties will be offered for SALE by AUCTION, in TWO LOTS, by Messrs.

WM. GROGAN & BOYD

At the LONDON AUCTION MART, 155, QUEEN VICTORIA-STREET, E.C.4, on FRIDAY, 5th JULY, 1935, at 2.30 p.m. (unless previously disposed of by private treaty).

Particulars and Conditions of Sale may be obtained from Messrs. White & Wasborough, Solicitors, 12, Great Marlborough-street, London, W.1, and together with orders to view from the Auctioneers, 10, Hamilton-place, Piccadilly, W.1.

TO INVESTORS AND TRUSTEES.

SIX PASTURE HOLDINGS

On the Warwickshire/Northamptonshire Borders
extending to
516 ACRES

and including some of the richest pasture land in the Midlands, all unusually well watered and producing an estimated and actual

RENT ROLL OF £730 PER ANNUM

Will be SOLD by AUCTION in
SEVEN CONVENIENT LOTS
by
Messrs. HOWKINS & SONS

At RUGBY, on 15th JULY next.

Full Particulars and Plans from 12, Albert-street, Rugby (Tel. 59), and at 9, Abington-street, Northampton, and 39, St. James's-street, S.W.1.

A. W. SHELTON,

Estate Agent, Valuer, etc.

A. W. SHELTON, F.A.I., C. W. SHELTON, F.A.I., G. RAWSON, F.A.I.

KING STREET, NOTTINGHAM. Phone: 40625.

W. & H. PEACOCK, F.A.I.,

6, DAME ALICE STREET, BEDFORD.

Telephone: 2333. (Close to G.P.O.)

Auctioneers, House and Estate Agents, Valuers and Surveyors.

HAMPTON & SONS

20, ST. JAMES'S-SQUARE, S.W.1.
Telephone: Whitehall 6767.
Telegrams: "Selanlet," Piccy. London.
And at HAMPSTEAD and WIMBLEDON.

27, HYDE PARK GARDENS, W.2.

Facing South over Hyde Park, with access to Private Gardens,
A Beautifully Appointed House with
PANELLED RECEPTION ROOMS,
Lounge Hall, three Reception Rooms, 12 Bedrooms, four Bathrooms, Compact Offices.
FIRST FLOOR BEDROOM SUITE.
Central Heating, Independent Hot Water System, Electric Power, Parquet Floors.
Lease about 58 years. Ground Rent £240 per annum.

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Solicitors: Messrs. Baylis, Pearce & Co., Bank Chambers, 116, Fore-street, E.C.2.

Particulars from the Auctioneers:—
HAMPTON & SONS, 20, St. James's-square, S.W.1.

FROGNAL RISE, OLD HAMPSTEAD.

Low-built
COUNTRY-STYLE RESIDENCE,
Occupying Island Site of over One Acre, on the Fringe of Historic Heath.
Twelve Bedrooms, two Bathrooms, Five entertaining Rooms, Fine Hall and Model Domestic Offices.
Over 400 feet above sea level. Central Heating. Oak Panelling.
Garage for three cars.
Chauffeur's Cottage with five rooms and bathroom.

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Solicitors: Messrs. Vandercom, Stanton & Co., 35, Spring-gardens, S.W.1.

Particulars from the Joint Auctioneers:
HAMPTON & SONS, 39, Heath-street, N.W.3, and CRACKNELL & HOW, 41, Heath-street, N.W.3.

DOUGLAS YOUNG & CO.,

At THE LONDON AUCTION MART,
On WEDNESDAY, 17th JULY, 1935.

FINSBURY SQUARE.—Shop and Office Building, No. 8, CITY-ROAD. One shop let to multiple firm. Net rental £1,425 per annum. 999 years' lease. Ground Rent £200 per annum.

WEST HAM.—Freehold Shop, No. 51, RICHFORD-ROAD, let on long lease at £35 per annum net.

ASHTEAD.—"UPLANDS," LEATHERHEAD-ROAD. Freehold Residence for occupation or development, 11 rooms, two bath rooms, garage, stabling, matured gardens, extending over 4 acres. With Vacant Possession.

Particulars and Conditions of Sale from the Auctioneers' Office, 69, Coleman-street, E.C.2. Met. 5672-3.

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(Near Brompton Oratory),

S.W.3,

Situated in a cul-de-sac.

Charming and Distinctive

DOUBLE-FRONTED RESIDENCE

Low Built. Only one Upper Floor. Essentially Labour Saving. Beautifully Decorated and Appointed.

Central Hall, Three Gound Floor Reception, Four Bed, Three Bath, Tiled Offices, Servants' Sitting Room. Central Heating throughout. Electric Power. Lavatory Basins in Bedrooms. Parquet Floors. Paved Forecourt.

Held on lease, having about 47¾ years unexpired, at the Ground Rent of £150 per annum.

For SALE by AUCTION (unless previously sold privately) at Harrods' Estate Sale Rooms, S.W.1, on TUESDAY, 16th JULY, 1935, at 2.30 p.m.

Solicitors: Messrs. Bird & Bird, 5, Gray's Inn-square, W.C.1.

Auctioneers: HARRODS, LTD., 62-64, Brompton-road, S.W.1.

16, WORSLEY ROAD,

PILGRIMS LANE, HAMPSTEAD,

N.W.3.

Five minutes from Hampstead Tube Station.

A Well-appointed

UNRESTRICTED FREEHOLD RESIDENCE

Situate in a quiet thoroughfare with its own Garden and within one minute's walk of the famous Heath.

Eight Bed, Three Reception, Large Hall, Bathroom, Kitchen, Pantry, Larder, &c.

Parquet Floors in several rooms.

VACANT POSSESSION.

For SALE by AUCTION (if not previously sold by Private Treaty) at the Estate Sale Rooms, on TUESDAY, 2nd JULY, 1935, at 2.30 p.m.

Solicitors: Messrs. C. R. Enever & Co., Broad-street House, Old Broad-street, E.C.2.

Auctioneers: HARRODS, LTD., 62-64, Brompton-road, S.W.1.

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ST. JOHN'S WOOD, N.W.8.

Close to Marlborough-road Station, Lords Cricket Ground, convenient for West End and City.

FREEHOLD MODERN RESIDENCE

of Country Style.

Detached, Non-Basement, standing in its Own Grounds well back from the Road, approached by Long Carriage Drive.

Eight Bed, Four Bath, Three Reception, Kitchen, Servants' Hall, &c.

Detached Garage for four cars, Servants' Cottage with Seven Rooms and Bathroom.

WELL LAID-OUT GARDENS.

Flagged Terraces and Walks. Tennis Court. Kitchen Garden.

Nearly Two-thirds of an Acre.

VACANT POSSESSION ON COMPLETION.

For SALE by AUCTION (unless previously sold privately) at Harrods' Estate Sale Rooms, S.W.1, on TUESDAY, 2nd JULY, 1935, at 2.30 p.m.

Solicitors: Messrs. Ford, Michelmore, Rose & Wilkins, 53, Russell-square, W.C.1.

Auctioneers: HARRODS, LTD., 62-64, Brompton-road, S.W.1.

By Order of the Personal Representatives.

10, LENNOX GARDENS, S.W.1.

Quiet and central position, few minutes from Hyde Park, Knightsbridge, &c.

Well-appointed

TOWN RESIDENCE

Facing South, overlooking and having Access to Gardens in Front.

Ten Bed and Dressing, Four Reception, Central Hall, Two Bath, Light Offices.

Secondary Staircase.

The Property has been particularly well maintained.

VACANT POSSESSION.

The Property is held on lease, having about 88 years unexpired, at a Ground Rent of £35 per annum, and Garden Rent.

For SALE by AUCTION (unless previously sold privately) at Harrods' Estate Sale Rooms, S.W.1, on TUESDAY, 2nd JULY, 1935, at 2.30 p.m.

Solicitors: Messrs. Stibbard, Gibson & Co., 21, Leadenhall-street, E.C.3.

Auctioneers: HARRODS, LTD., 62-64, Brompton-road, S.W.1.

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SALE at the LONDON AUCTION MART on THURSDAY, 11th JULY, at 2.30.

By Order of Trustees, Executors and Others.

WEST MOLESEY.—Freehold Houses, Nos. 1, 3 and 7 HURSTFIELD-ROAD. Let at £79 6s. per annum.

TEDDINGTON.—Freehold Villa, No. 64, MUNSTER-ROAD. Let at £41 5s. 6d. per annum.

CHADWELL HEATH.—Freehold House, No. 90, ERIC-ROAD. Let at £59 16s. per annum.

LEYTON.—Freehold Houses, Nos. 12, 14 and 25, WEST END-AVENUE. Let at weekly rents £152 10s. 8d. per annum.

POPLAR.—Freeholds, Nos. 249, 251 and 253, HIGH-STREET, comprising a Shop and House and two Houses. With Vacant Possession of the whole.

STRATFORD.—Four Freehold Houses, Nos. 66 and 74, BUXTON-ROAD. Let at £99 6s. 10d. per annum, and 83 and 85, GURNEY-ROAD. Let at £109 8s. 4d. per annum.

MILE END.—Freehold Houses (one with shop), Nos. 16 and 22, MAPLIN-STREET. Let at £109 8s. 4d. per annum.

Nos. 132 and 134, WHITECHAPEL-ROAD, E., and Nos. 1 and 2, VINE-COURT.—Valuable Leasehold Property, comprising two Shops with Flats over and at rear. Covered and Open Yards, Garages, Warehouses and Workshops, and two Houses. One shop, one house and the flats let at weekly rents, the remainder with Vacant Possession. Terms 64 years. Site area 14,800 sq. feet.

STEPNEY.—Freehold Houses, No. 190, RHODES-WELL-ROAD, let at £36 12s. 4d. per annum; No. 65, MAROON-STREET, let at £47 11s. 2d. per annum; Nos. 43, LANGDALE-STREET, and 8, MARMADUKE-PLACE, let at £87 19s. 4d. per annum.

BOW.—Freehold House, No. 45, LIBRA-ROAD. Let at £57 18s. per annum.

POPLAR.—Freehold House, No. 28, WILLIS-STREET. Let at £34 17s. 8d. per annum.

STEPNEY.—Freehold Grocer's Shop and House, No. 91, WHITE HORSE-STREET. Rent on Lease £104 per annum gross.

For Particulars and Conditions of Sale apply to the Auctioneers,

13, LIME STREET, LEADENHALL STREET, E.C.3.

33, MILE END-ROAD, E.1, and 87, GROSVENOR-ROAD, N.5.

FOR RESIDENCE OR DEVELOPMENT.

FREEHOLD PROPERTIES.

3 and 4, THE BOLTONS,

SOUTH KENSINGTON.

TOGETHER OR SEPARATELY.

VACANT POSSESSION.

Each house contains 4 reception rooms, 6 bedrooms, &c. Frontages total 260 feet. Site area over ½ acre.

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GUL. 3311.

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CAMDEN TOWN.—FOUR PROPERTIES, producing £477 per annum. Lease 14 years. Ground Rent £77. Price £1,500 or offer.

FINSBURY PARK.—BLOCK of FOUR FLATS, producing £316 per annum. Lease 999 years. Ground Rent £10. Price £2,500.

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Details of Sole Agent, A. R. PEACEY, as above.

By Direction of Sir John Leigh, Bart., M.P.

"WARWICK LODGE,"

MELTON MOWBRAY,

LEICESTERSHIRE.

Close to the market town.

Unequalled hunting facilities.

A WELL-APPOINTED FREEHOLD RESIDENCE, secludedly placed some 300 ft. above sea level, facing south, front and back drive approaches.

Vestibule entrance, spacious oak-panelled lounge, three reception rooms, fourteen principal, secondary, and staff bedrooms, five bathrooms, two staircases, and modern tiled offices. All arranged on two floors and fitted with a wealth of oak panelling.

Main electric light, water, gas, and drainage. Radiators. Telephone.

Adequate first-class stabling, garage, and groom's quarters, chauffeur's and gardener's cottages.

BEAUTIFULLY TIMBERED GARDENS & GROUNDS, the whole embracing

OVER 5 ACRES

with about 1,250 ft. of valuable frontage.

In excellent condition and equally suitable for a Private Residence, Hunting Establishment, Country Club, or Institutional purposes.

With Vacant Possession on completion.

To be SOLD by AUCTION in the Estate Auction Hall, 22, King-street, St. James's, S.W.1, on Thursday, 11th July, 1935, at 2.30 p.m. (unless an acceptable offer received meanwhile).

Solicitors: Messrs. WOODCOCK, RYLAND & PARKER, 15, Bloomsbury-square, W.C.1.

Illustrated particulars, with plan and Conditions of Sale, of the Auctioneers,

GODDARD & SMITH,

22, King-street, St. James's, S.W.1.

N.B.—The tasteful and appropriate furniture and furnishings may be purchased if desired.

KENSINGTON.

FREEHOLD BUSINESS PREMISES

known as

9, HIGH STREET, KENSINGTON.

Let until Christmas, 1936, at a Ground Rent of £150 per annum. Reversion to vacant possession with an estimated rack rental value of

£1,250 PER ANNUM.

To be OFFERED by AUCTION by Messrs.

KNIGHT, FRANK & RUTLEY

In the Hanover-square Estate Room, on Thursday, 25th July, 1935, at 2.30 p.m. (unless previously sold privately).

Solicitors: Messrs. Watson, Sons & Room, 11, Bouverie-street, E.C.4.

Auctioneers: Messrs. Knight, Frank & Rutley, 20, Hanover-square, W.1.

IMPROVING INVESTMENT

arising out of

BLOCK OF 8 FREEHOLD SHOPS

known as

Nos. 1–7 (inclusive), and 9, THE ROMANS,

THE GREEN, SOUTHALL,

All let on full repairing and insuring leases to produce PER £870 ANNUM,

Rising by annual increments to £1,010 per annum.

To be SOLD by AUCTION at LONDON AUCTION MART, E.C., on 11th JULY, by

STURT & TIVENDALE,

F.S.I., F.A.I.,

Auction Offices: 61, High-street, N.6. Tel. Mountview 6668.

ATTRACTIVE RESIDENCES FOR SALE.

CROUCH END.—37 and 39, COOLHURST-ROAD. Pleasant position, close station, playing fields, woods, and shops. Six bed, bath, 3 reception rooms and 2 reception rooms, and lounge hall respectively. Very large gardens. No. 39 has tennis court and garage (2 cars). Lease 42. Ground Rents £19 and £15 respectively.

MUSWELL HILL.—82, HALLIWICK-ROAD. Semi-detached house, containing 3 bed, 1 bath, 2 reception, offices. Nice garden. Lease 76. Ground Rent £6 6s.

"ORMONDE," 6, THE CRESCENT EAST, HADLEY WOOD.

OAKLEIGH PARK.—9, BUCKINGHAM-AVENUE.

OAKLEIGH PARK.—"THE CORRIE," OAKLEIGH-AVENUE. Freehold modern houses, as previously advertised.

To be SOLD at LONDON AUCTION MART on 11th JULY by

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Auction Offices: Highgate, Muswell Hill and Whetstone.

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